



**REPORT ON MEASURES TO COMBAT DISCRIMINATION  
Directives 2000/43/EC and 2000/78/EC**

**COUNTRY REPORT 2011**

**LIECHTENSTEIN**

**WILFRIED MARXER, CHRISTIAN FROMMELT, SERAINA SARTOR**

**State of affairs up to 1<sup>st</sup> January 2012**

This report has been drafted for the **European Network of Legal Experts in the Non-discrimination Field** (on the grounds of Race or Ethnic Origin, Age, Disability, Religion or Belief and Sexual Orientation), established and managed by:

Human European Consultancy  
Maliestraat 7  
3581 SH Utrecht  
Netherlands  
Tel +31 30 634 14 22  
Fax +31 30 635 21 39  
[office@humanconsultancy.com](mailto:office@humanconsultancy.com)  
[www.humanconsultancy.com](http://www.humanconsultancy.com)

Migration Policy Group  
Rue Belliard 205, Box 1  
1040 Brussels  
Belgium  
Tel +32 2 230 5930  
Fax +32 2 280 0925  
[info@migpolgroup.com](mailto:info@migpolgroup.com)  
[www.migpolgroup.com](http://www.migpolgroup.com)

All reports are available on the website of the European network of legal experts in the non-discrimination field:  
<http://www.non-discrimination.net/law/national-legislation/country-reports-measures-combat-discrimination>

This report has been drafted as part of a study into measures to combat discrimination in the EU Member States, funded by the European Community Programme for Employment and Social Solidarity – PROGRESS (2007-2013). The views expressed in this report do not necessarily reflect the views or the official position of the European Commission.

## TABLE OF CONTENTS

### INTRODUCTION 4

0.1	The national legal system .....	4
0.2	Overview/State of implementation .....	6
0.3	Case-law.....	8
<b>1</b>	<b>GENERAL LEGAL FRAMEWORK .....</b>	<b>11</b>
<b>2</b>	<b>THE DEFINITION OF DISCRIMINATION .....</b>	<b>12</b>
2.1	Grounds of unlawful discrimination .....	12
2.1.1	Definition of the grounds of unlawful discrimination within the Directives .....	12
2.1.2	Assumed and associated discrimination .....	14
2.2	Direct discrimination (Article 2(2)(a)) .....	15
2.2.1	Situation Testing .....	16
2.3	Indirect discrimination (Article 2(2)(b)) .....	17
2.3.1	Statistical Evidence .....	18
2.4	Harassment (Article 2(3)).....	19
2.5	Instructions to discriminate (Article 2(4)).....	20
2.6	Reasonable accommodation duties (Article 2(2)(b)(ii) and Article 5 Directive 2000/78).....	20
2.7	Sheltered or semi-sheltered accommodation/employment .....	24
<b>3</b>	<b>PERSONAL AND MATERIAL SCOPE .....</b>	<b>26</b>
3.1	Personal scope .....	26
3.1.1	EU and non-EU nationals (Recital 13 and Article 3(2) Directive 2000/43 and Recital 12 and Article 3(2) Directive 2000/78) .....	26
3.1.2	Natural persons and legal persons (Recital 16 Directive 2000/43) .....	27
3.1.3	Scope of liability .....	27
3.2	Material Scope.....	27
3.2.1	Employment, self-employment and occupation.....	27
3.2.2	Conditions for access to employment, to self-employment or to occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy (Article 3(1)(a)). Is the public sector dealt with differently to the private sector?.....	28
3.2.3	Employment and working conditions, including pay and dismissals (Article 3(1)(c)) .....	29
3.2.4	Access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience (Article 3(1)(b)) .....	29
3.2.5	Membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations (Article 3(1)(d)).....	30
3.2.6	Social protection, including social security and healthcare (Article 3(1)(e) Directive 2000/43) .....	30

3.2.7	Social advantages (Article 3(1)(f) Directive 2000/43).....	31
3.2.8	Education (Article 3(1)(g) Directive 2000/43) .....	32
3.2.9	Access to and supply of goods and services which are available to the public (Article 3(1)(h) Directive 2000/43).....	33
3.2.10	Housing (Article 3(1)(h) Directive 2000/43).....	34
<b>4</b>	<b>EXCEPTIONS</b> .....	<b>35</b>
4.1	Genuine and determining occupational requirements (Article 4) .....	35
4.2	Employers with an ethos based on religion or belief (Art. 4(2) Directive 2000/78) .....	35
4.3	Armed forces and other specific occupations (Art. 3(4) and Recital 18 Directive 2000/78).....	36
4.4	Nationality discrimination (Art. 3(2).....	36
4.5	Work-related family benefits (Recital 22 Directive 2000/78) .....	37
4.6	Health and safety (Art. 7(2) Directive 2000/78).....	38
4.7	Exceptions related to discrimination on the ground of age (Art. 6 Directive 2000/78) .....	38
4.7.1	Direct discrimination.....	38
4.7.2	Special conditions for young people, older workers and persons with caring responsibilities .....	39
4.7.3	Minimum and maximum age requirements .....	39
4.7.4	Retirement .....	40
4.7.5	Redundancy.....	41
4.8	Public security, public order, criminal offences, protection of health, protection of the rights and freedoms of others (Article 2(5), Directive 2000/78) .....	41
4.9	Any other exceptions .....	41
<b>5</b>	<b>POSITIVE ACTION (Article 5 Directive 2000/43, Article 7 Directive 2000/78)</b>	<b>42</b>
<b>6</b>	<b>REMEDIES AND ENFORCEMENT</b> .....	<b>45</b>
6.1	Judicial and/or administrative procedures (Article 7 Directive 2000/43, Article 9 Directive 2000/78).....	45
6.2	Legal standing and associations (Article 7(2) Directive 2000/43, Article 9(2) Directive 2000/78) .....	47
6.3	Burden of proof (Article 8 Directive 2000/43, Article 10 Directive 2000/78)	50
6.4	Victimisation (Article 9 Directive 2000/43, Article 11 Directive 2000/78)...	50
6.5	Sanctions and remedies (Article 15 Directive 2000/43, Article 17 Directive 2000/78) .....	51
<b>7</b>	<b>SPECIALISED BODIES, Body for the promotion of equal treatment (Article 13 Directive 2000/43)</b> .....	<b>54</b>
<b>8</b>	<b>IMPLEMENTATION ISSUES</b> .....	<b>59</b>
8.1	Dissemination of information, dialogue with NGOs and between social partners .....	59
8.2	Compliance (Article 14 Directive 2000/43, Article 16 Directive 2000/78) ..	60
<b>9</b>	<b>CO-ORDINATION AT NATIONAL LEVEL</b> .....	<b>62</b>
<b>ANNEX</b>	<b>ANNEX 1: TABLE OF KEY NATIONAL ANTI-DISCRIMINATION LEGISLATION</b> ..	<b>64</b>
	<b>ANNEX 2: TABLE OF INTERNATIONAL INSTRUMENTS</b> .....	<b>67</b>



## ABBREVIATIONS

AABP	Act on Assistance for Blind People
AAVCO	Act on Aid for Victims of Criminal Offences
ACC	Act on the Constitutional Court
ACPP	Act on Company Personnel Plan
ACUSSC	Act on Civil Union for Same-Sex Couples
ACY	Act on Children and Youth
ADI	Act on Disability Insurance
AECS	Act on the Employment of Public Officials
AEICT	Act on Employment in Industry, Commerce and Trade
AEPD	Act on Equality of People with Disabilities
AEWM	Act on Equality between Women and Men
AF	Act on Foreigners
AFM	Act on Free Movement of Persons of EEA and Swiss citizens
AIC	Act on Information and Consultation of Employees in Undertakings
AMCLC	Act on Mediation in Civil Law Cases
APS	Act on Postal Services
ARAF	Act on Rent Allowance for Families
AS	Act on Statistics
ASANP	Act on Supplementary Aid to the National Old Age and Widow's/Widower's Pension
ASA	Act on State Administration
ASH	Act on Social Help
ASE	Act on School Education
AVT	Act on Vocational Training
CCC	Common Civil Code
CCP	Code of Civil Procedure
DPA	Data Protection Act
NOWP	National Old Age and Widow's/Widower's Pension
PC	Penal Code
PCL	Personal and Corporate Law

## INTRODUCTION

### 0.1 The national legal system

*Explain briefly the key aspects of the national legal system that are essential to understanding the legal framework on discrimination. For example, in federal systems, it would be necessary to outline how legal competence for anti-discrimination law is distributed among different levels of government.*

The Principality of Liechtenstein is one of the smallest countries in Europe, with only 36,000 inhabitants. It lies embedded between Switzerland and Austria and its history goes back to the beginning of the 18<sup>th</sup> century, being for many decades part of the Holy Roman Empire. Liechtenstein has been an independent country since 1806. The current constitution, first approved on 5 October 1921, defines Liechtenstein as “a constitutional, hereditary monarchy on a democratic and parliamentary basis”<sup>1</sup> where “the power of the State is embodied in the Reigning Prince and the People”.<sup>2</sup> This means that political power is shared equally between the elected parliament/the people and the monarch. However, the Prince must approve every law and financial resolution in order for it to attain legal force.<sup>3</sup> If the Prince does not give his approval within six months, the relevant act is considered to have been refused. Thus it cannot enter into force. Liechtenstein law is significantly influenced by Swiss and Austrian law – the two neighbouring countries.

Art. 45 of the Constitution states that the Parliament (*Landtag*) is the “legal organ which represents and asserts the rights and interests of the people in relation to the government in accordance with the constitution”.<sup>4</sup> The parliament is made up of 25 elected members, 15 from the “upper country” (*Oberland* - the southern part of Liechtenstein) and 10 from the “lower country” (*Unterland* - the northern part); they are elected for a period of four years. In respect of international relations, Parliament is not allowed to amend a treaty which has already been signed by the government; it can however accept or reject it completely. In addition, the people have the direct democratic rights of initiative and referendum, including the referendum on international treaties. New laws, and amendments to laws and the constitution, therefore, can also be initiated and decided on by the people in a popular vote.

The members of the government are selected on the recommendation of the Parliament and are appointed by the reigning Prince. The government consists of five members, one of them being the Prime Minister, who has to countersign the laws

<sup>1</sup> Art. 2 of the Constitution of the Principality of Liechtenstein: <http://www.llv.li/verfassung-e-01-02-09.doc.pdf>. Verfassung des Fürstentums Liechtenstein vom 5. Oktober 1921 (LV), LGBl. 1921 Nr. 15.

<sup>2</sup> Art. 2 of the Constitution.

<sup>3</sup> Art. 9 of the Constitution.

<sup>4</sup> Art. 45 of the Constitution.

and financial resolutions which have passed the parliament and have been signed by the reigning Prince.<sup>5</sup>

The legal system is dual. On the one hand, criminal and civil law is handled by the Princely Ordinary Courts (*Landgericht*); appeals from first instance are treated by the Princely Upper Court (*Obergericht*), and ultimately by the Princely High Court (*Oberster Gerichtshof*). In cases of dispute between citizens and organs of the state, the Administration Court (*Verwaltungsgericht*) and the Constitutional Court (*Staatsgerichtshof*) act as the relevant courts of law.

The legal system requires that all laws must be in conformity with the constitution and with relevant international treaties. Article 104 §1 of the constitution requires that a Constitutional Court be established as a court of public law to protect the rights guaranteed by the Constitution, to decide in conflicts of jurisdiction between the Courts and the administrative authorities, and to act as a disciplinary court for the Ministers. Art. 104 §2 states that the Constitutional Court shall have jurisdiction to review the constitutionality of laws and international treaties and the legality of Government ordinances; in such matters, it may declare their annulment. Regarding the adoption of international law, Liechtenstein follows a monist approach.

Seventy-six percent of the population are members of the Roman Catholic Church, eight percent are members of Protestant churches and five percent are Muslims (Census 2010). An increasing percentage of the population confesses no religion. There are no precise figures on people with disabilities in Liechtenstein. According to a research study<sup>6</sup> in 2007, approximately 18 percent (6,300) of the population have some kind of disability: 3,500 are estimated to have a physical disability, 1,200 to have a visual or oral disability, 350 to have an intellectual disability, and 1,200 to have a psycho-social disability.

33.2 percent of the Liechtenstein inhabitants are foreigners (2011). There are no figures on minority groups, but the nationality of the aliens is covered by the statistics. Most of the foreigners are from other German speaking countries (Switzerland, Austria and Germany). Social integration is not a severe problem for them. The biggest group from countries with a language other than German are people from Italy (1,147), followed by Turkey (785), Portugal (626), and Spain (330). The statistical data refers to nationality. It does not indicate whether people are well integrated or not, how proficient they are in German language and so on. In Liechtenstein, a minority problem as such does not exist.

The national laws of Liechtenstein and the international treaties which have primary relevance for anti-discrimination in Liechtenstein are listed in the appendix.

<sup>5</sup> <http://www.liechtenstein.li/index.php?id=19&L=1> Constitution of the Principality of Liechtenstein: <http://www.llv.li/verfassung-e-01-02-09.doc.pdf>.

<sup>6</sup> Marxer, Wilfried & Simon, Silvia (2007): Zur gesellschaftlichen Lage von Menschen mit Behinderung (Arbeitspapiere Liechtenstein-Institut, 15), p. 109.



## 0.2 Overview/State of implementation

*List below the points where national law is in breach of the Directives. This paragraph should provide a concise summary, which may take the form of a bullet point list. Further explanation of the reasons supporting your analysis can be provided later in the report.*

The Directives 2000/78/EC and 2000/43/EC are based on Art. 13 of the EC Treaty which was introduced by the Treaty of Amsterdam and which is not reflected in the EEA Agreement. The Directives have thus not been incorporated into the EEA Agreement. In contrast to its EFTA partners Iceland and Norway, Liechtenstein has also refrained from implementing the Directives autonomously. The reluctant attitude of Liechtenstein can be explained by the lack of administrative resources and the aim of a low regulatory density. In addition, Liechtenstein law includes different legal acts which cover most aspects of those Directives. This applies in particular to equal treatment of women and men as well as to discrimination on grounds of disability.

A big step was taken in 2011 to further limit discrimination when, in a popular vote, the electorate agreed to the Act on Civil Union/Same-Sex Partnership.

### a) Act on Equality of People with Disabilities (AEPD).<sup>7</sup>

This act aims at eliminating and preventing discrimination against people with disabilities. It aims to guarantee equal participation by people with disabilities in the daily life of society.

### b) Act on Civil Union for Same-Sex Couples (ACUSSC).<sup>8</sup>

This act regulates the creation, effects and annulment of registered partnerships of same-sex couples. It states that the partnership of same-sex couples is legally recognised. They therefore have similar rights and responsibilities as different-sex married couples when it comes to the legal recognition of the partnership. But there are also exceptions. Same-sex couples, for instance, may not adopt children.

### c) Act on Equality between Women and Men (AEWM).<sup>9</sup>

This act regulates equality between women and men and postulates gender equality in the workplace as well as in relation to access to goods and services. The AEWM also serves to implement several EEA-relevant EU acts, in particular the Directives

<sup>7</sup> Gesetz vom 25. Oktober 2006 über die Gleichstellung von Menschen mit Behinderungen (Behindertengleichstellungsgesetz; BGIG), LGBl. 2006 Nr. 243.

<sup>8</sup> Gesetz vom 16. März 2011 über die eingetragene Partnerschaft gleichgeschlechtlicher Paare (Partnerschaftsgesetz; PartG), LGBl. 2011 Nr. 350.

<sup>9</sup> Gesetz vom 10. März 1999 über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; LGBl. 1999 Nr. 96.

2004/113/EC and 2006/54/EC which Liechtenstein finally incorporated into domestic law in 2011 after a decision by the EFTA Court.

d) Personal and Corporate Law (PCL).<sup>10</sup>

This act is applied to all matters of private law; it is only to a certain degree applicable to public law. It contains for instance provisions on maturity (*Mündigkeit*), capacity to contract (*Handlungsfähigkeit*), power of judgement (*Urteilsfähigkeit*), and deprivation of the right of decision (*Entmündigung*), also provisions on legal guardians (*Vormund*) and custodians (*Sachwalter*). It can be relevant to persons with an intellectual disability.

e) Act on Employment in Industry, Commerce and Trade (AEICT).<sup>11</sup>

This act regulates and specifies the rules of employment of men, young people and women in industry, commerce and trade.

f) Common Civil Code (CCC).<sup>12</sup>

The labour law of the Principality of Liechtenstein is part of the CCC, which relates strongly to the Austrian Civil Code. The labour law is implemented by the state, as stated in Art. 19 of the Constitution: "The State shall protect the right to work and the workers, especially women and young persons employed in trades and industry". Liechtenstein's civil law is based to a certain degree on both Austrian and Swiss law. Art. 8b of the CCC states clearly that an employer may not discriminate against an employee for gender reasons, due to the AEW. Art. 27 of the CCC also states, inter alia, that an employer has to ensure that both female and male employees are not sexually harassed.

g) Act on the Employment of Public Officials (AEGS).<sup>13</sup>

This act regulates and specifies the employment of public officials. In respect of non discrimination it stipulates that the human resources management of the Liechtenstein government supports the integration of people with disabilities and guarantees equal opportunities for women and men (Art.4 §2i and §2f).

h) Act on School Education (ASE).<sup>14</sup>

<sup>10</sup> Personen- und Gesellschaftsrecht (PGR) vom 20. Januar 1926, LGBl. 1926 Nr. 4.

<sup>11</sup> Gesetz vom 29. Dezember 1966 über die Arbeit in Industrie, Gewerbe und Handel (Arbeitsgesetz); LGBl. 1967 Nr. 6.

<sup>12</sup> Allgemeines Bürgerliches Gesetzbuch vom 1. Juni 1811 (ABGB).

<sup>13</sup> Gesetz vom 24. April 2008 über das Dienstverhältnis des Staatspersonals (Staatspersonalgesetz; StPG), LGBl. 2008 Nr. 144.

<sup>14</sup> Schulgesetz vom 15. Dezember 1971, LGBl. 1972 Nr. 7.



This act concerns school education from kindergarten to gymnasium (grammar school). It states that school education is free of charge (Art. 7) and that school attendance of at least nine years is mandatory for every child with Liechtenstein residence (Arts. 74 and 76). Art. 15b of the ASE provides for pedagogic and therapeutic measures for pupils up to the age of 20 who are disabled in any way.

i) Penal Code (PC).<sup>15</sup>

Art. 283 of the PC concerns discrimination on grounds of race, ethnicity, and religion. The law states that a sentence of up to two years shall be given to a person who incites publicly against a person or against a group of persons based on race, ethnicity or religious belief; and to anyone who publicly disseminates ideologies aimed at the systematic reduction or defamation of members of a race, ethnicity or religion.

In addition, Liechtenstein has also signed several international treaties with relevance to anti-discrimination, though not directly applicable. The major ones are listed in the appendix.

Now that the ACUSSC (registered partnership) has been introduced in 2011 and has become part of the legislation, Liechtenstein law has become less discriminatory. The above-mentioned Council Directives, however, identify more forms of discrimination than are mentioned in the Liechtenstein constitution or in any other Liechtenstein law. There are quite clear provisions regarding discrimination on grounds of disability and gender (cf. the relevant acts: AEPD and AEWB). Notably, apart from rather general provisions in the penal code with respect to race, ethnicity and religion, there are no distinct anti-discrimination acts covering discrimination on grounds of race or ethnic origin, religion and belief, age or sexual orientation. Hence, Liechtenstein still needs to make further efforts to challenge discrimination. A comprehensive anti-discrimination act, covering all grounds of discrimination and including provisions on an independent ombudsmen office would be welcome from the point of view of anti-discrimination. Although the European Convention on Human Rights (ECHR) and other international treaties are binding to the Liechtenstein jurisdiction, clear legal anti-discrimination provisions at the national level are missing.

### 0.3 Case-law

*Provide a list of any important case law within the national legal system relating to the application and interpretation of the Directives. This should take the following format:*

**Name of the court:** OGH- Fürstlicher Oberster Gerichtshof (Princely High Court)

**Date of decision:** 09.03.2011

**Name of the parties:-**

<sup>15</sup> Strafgesetzbuch (StGB) vom 24. Juni 1987; LGBl. 1988 Nr. 37.

**Reference number:** 03 KG.2010.16

**Address of the webpage**

<http://www.gerichtsentseide.li/default.aspx?mode=suche&txt=Brandanschlag&id=2401&backurl=?mode=suche%26txt=Brandanschlag>

**Brief summary**

On 22 November 2009, NN threw a petrol bomb into the apartment of family Ü. The bomb bounced off the balcony railing causing some objects to catch fire (cushion and a tool box). The rest of the bomb burned out on the parking space in front of the building. Then, on February 26<sup>th</sup>, 2010, NN and at least one other unnamed person threw four petrol bombs into a new shop which was due to open soon. They also smashed windows before throwing the petrol bombs. The families living above the shop, as well as the owner of the shop, are of Turkish and Kosovan origin. The attack was motivated by racism. The petrol bombs burned out and caused no damage to the rest of the building or the furnishings.

The court trial had started at the Princely Ordinary Court as Criminal Court (*Land- als Kriminalgericht*) (Decision on 5 October 2010), followed by the Princely Upper Court (*Obergericht*) (7 December 2010). The sentence of the Ordinary Court was confirmed by the Upper Court. NN was sentenced to 30 months of prison.

**Name of the court:** OGH- *Fürstlicher Oberster Gerichtshof* (Princely High Court)

**Date of decision:** 02.08.2006

**Name of the parties:** -

**Reference number:** 1 JG 2005.32-49

**Address of the webpage**

<http://www.gerichtsentseide.li/default.aspx?mode=suche&txt=1%20JG%202005.32-49&gericht=4>

**Brief summary**

On June 23, 2003, NN was incriminated because he had displayed a swastika banner and the SS sign which could be seen from the outside. The police also found different CDs of Nazi bands which he had bought over the internet and had also sold to various friends. Both the banners and the music were directed towards the systematic reduction or defamation of members of a certain race or religion; meaning that NN had twice contravened the laws against racial discrimination under §283 Art. 1 Par. 2 and §283 Art. 2 Par. 2 of the Penal Code (PC).<sup>16</sup> The accused person was sentenced to three months of prison. The sentence was put on probation.

The court trial had started at the Princely Ordinary Court as Juvenile Court (*Landgericht als Jugendgericht*) (Decision on 21 February 2006), followed by the Princely Upper Court (*Obergericht*) (31 May 2006).

There is no case law on disability and employment or other grounds of discrimination known to the authors.

<sup>16</sup> Strafgesetzbuch (StGB) vom 24. Juni 1987; LGBl. 1988 Nr. 37.



There is no case law concerning Roma. Until now Roma are hardly present in Liechtenstein.

## 1 GENERAL LEGAL FRAMEWORK

### Constitutional provisions on protection against discrimination and the promotion of equality

- a) *Briefly specify the grounds covered (explicitly and implicitly) and the material scope of the relevant provisions. Do they apply to all areas covered by the Directives? Are they broader than the material scope of the Directives?*

The Constitution of the Principality of Liechtenstein has no provisions directly related to discrimination, neither on grounds of disability, nor race or ethnic origin, age, gender, or sexual orientation. However, it includes the basic principle of equality. Concerning religion and belief, the constitution states that freedom of belief and conscience (*Glaubens- und Gewissensfreiheit*) is guaranteed (Art. 37) and that property of religious communities and associations is safeguarded as well (Art. 38). Art. 27bis states that human dignity shall be respected and protected and that no one may be subjected to inhuman or degrading treatment or punishment.

Art. 31 states that all Liechtenstein citizens shall be equal before the law. It is stated in the constitution (Art. 31 §1) that the term “Liechtenstein citizens” (*Landesangehörige*) is to be understood as referring to all persons holding Liechtenstein national citizenship, aliens excluded. In 2011, 33.2 percent of the Liechtenstein population were foreigners.

Art. 31 §2 states that men and women are equal.

Concerning religion, the Roman-Catholic Church has a privileged status in the Liechtenstein constitution (Art. 37 §2). The constitution, on the other hand, guarantees freedom of belief and conscience (*Glaubens- und Gewissensfreiheit*) (Art. 37 §1). Despite this guarantee, the privilege of the Catholic Church can be interpreted as discriminating against other confessions.

- b) *Are constitutional anti-discrimination provisions directly applicable?*

Arts. 27 and 31 of the Constitution are legally binding, even if the clauses are not specifically laid out as anti-discrimination provisions. Anyone who is directly affected by any kind of discrimination (meaning that human dignity has not been preserved) is able to write a complaint which then will be analysed and further decided on by the Constitutional Court (*Staatsgerichtshof*). All national laws must be in line with the Constitution and with relevant international treaties, such as the European Convention on Human Rights (relevant treaties are listed in Art.15 §2).

- c) *In particular, where a constitutional equality clause exists, can it (also) be enforced against private actors (as opposed to the State)?*

Equality clauses in the constitution are applicable to both private and state actors.

## 2 THE DEFINITION OF DISCRIMINATION

### 2.1 Grounds of unlawful discrimination

*Which grounds of discrimination are explicitly prohibited in national law? All grounds covered by national law should be listed, including those not covered by the Directives.*

The Liechtenstein Constitution explicitly prohibits unequal treatment of men and women (Art. 31 §2) and guarantees freedom of religion and conscience (Art.37 §1).

The European Convention on Human Rights (ECHR), which Liechtenstein signed in 1982, is also applicable. It protects individuals from discrimination because of gender, race, colour, language, religion, political and other opinions, origin, national minority, property, birth and other status.

The CCC states in Art. 39 that religious affiliation has no influence on civil law except where there are specific rules in laws concerning a few particular subject matters. This article concerns eventually persons with special religious background, such as priests.

The AEPD protects individuals against any kind of discrimination based on disability.

The Liechtenstein Act on Children and Youth (ACY)<sup>17</sup> protects children and young persons from discrimination due to sexism, racism, political radicalization or violence (Art. 63).

The Liechtenstein Act on Postal Services (APS)<sup>18</sup> explicitly excludes any discrimination based on political, religious, or ideological grounds (Art. 5).

The Liechtenstein Act on Information and Consultation of Employees in Business Enterprises (AIC)<sup>19</sup> states in Art. 10 that employees are not allowed to be treated less favourably due to their involvement in an organisation for workers' representation.

#### 2.1.1 Definition of the grounds of unlawful discrimination within the Directives

- a) *How does national law on discrimination define the following terms: racial or ethnic origin, religion or belief, disability, age, sexual orientation? Is there a definition of disability at the national level and how does it compare with the concept adopted by the European Court of Justice in Case C-13/05, Chacón Navas, Paragraph 43, according to which "the concept of 'disability'*

<sup>17</sup> Kinder- und Jugendgesetz vom 10. Dezember 2008 (KJG), LGBl. 2009 Nr. 29.

<sup>18</sup> Gesetz vom 18. Dezember 1998 über das liechtensteinische Postwesen (Postgesetz; PG), LGBl. 1999 Nr. 35.

<sup>19</sup> Gesetz vom 23. Oktober 1997 über die Unterrichtung und Anhörung der Arbeitnehmerschaft in den Betrieben (Mitwirkungsgesetz; MWG), LGBl. 1997 Nr. 211.

*must be understood as referring to a limitation which results in particular from physical, mental or psychological impairments and which hinders the participation of the person concerned in professional life"?*

Racial or ethnic origin: The International Convention on the Elimination of All forms of Racial Discrimination of 4 November 1950 came into force in Liechtenstein on 31 March 2000. It defines racial discrimination in Art. 1 as: any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Disability: According to Art.3 of the AEPD, the definition of disability is: “the result of a deficiency of functions that is not just temporary and is based on a physiological, mental, or psychological condition or an impairment of sensory functions which constitutes a possible complication for participation in the labour market. Such a condition is not deemed temporary if it is likely to last for more than 6 months.” The definition is taken from the Austrian Act on the Employment of People with Disabilities.

This definition is very similar to the European Court of Justice Case C-13/05, Chacón Navas, Paragraph 43 definition, according to which disability “must be understood as referring to a limitation which results in particular from physical, mental or psychological impairment and which hinders the participation of these persons concerned in professional life”. Both the national law and the definition in Case C-13/05, Chacón Navas refer to “physiological, mental and physical” limitations which occur in disabilities. The national law therefore corresponds with the law given and used within the European Union.

Age: There are no stated limits in relation to age. However, children and youth up to and including the age of 18 have a special protection.

Sexual Orientation: There are no definitions of sexual orientation in the national law of Liechtenstein. There is no case law or judicial interpretation on this subject either.

Religion or belief: There are no definitions of religion or belief in the national law of Liechtenstein. The constitution stays vague and guarantees freedom of religion and belief. Despite this, the Roman-Catholic Church has a privileged status in Liechtenstein (Art.37 §2 of the constitution). In the context of Art.37 of the constitution, which covers religion and belief, “belief” must be interpreted as “religious belief”, not as “political belief”. Art.40 of the constitution covers freedom of speech (*Meinungsfreiheit*), Art.41 covers the right of assembly and association (*Vereins- und Versammlungsrecht*).

b) *Where national law on discrimination does not define these grounds, how far have equivalent terms been used and interpreted elsewhere in national law*



*(e.g. the interpretation of what is a 'religion' for the purposes of freedom of religion, or what is a 'disability', sometimes defined only in social security legislation)? Is recital 17 of Directive 2000/78/EC reflected in the national anti-discrimination legislation?*

No answer/ see response above under (a).

- c) *Are there any restrictions related to the scope of 'age' as a protected ground (e.g. a minimum age below which the anti-discrimination law does not apply)?*

The laws do not state a maximum age for apprenticeships and suchlike. Thus one can say that the anti-discrimination law applies to all ages. Some companies or trades may have their own age limit in order to ensure – from their point of view – that their employees are fully capable of the workload, both physically and mentally. There is no case law known to the authors on this subject.

There is no strong focus of the Liechtenstein legislation on age as a ground of discrimination, compared to disability and gender.

- d) *Please describe any legal rules (or plans for the adoption of rules) or case law (and its outcome) in the field of anti-discrimination which deal with situations of multiple discrimination. This includes the way the equality body (or bodies) are tackling cross-grounds or multiple grounds discrimination. Would national or European legislation dealing with multiple discrimination be necessary in order to facilitate the adjudication of such cases?*

The AEPD states in Article 23 that multiple discrimination has to be taken into account when it comes to decide on the compensation for immaterial damages at a court trial. There are no provisions regarding multiple discrimination on other grounds like religion and belief, sexual orientation, race and ethnic origin, age, or gender. There are no plans for the adoption of such rules known to the authors.

- e) *How have multiple discrimination cases involving one of Art. 19 TFEU grounds and gender been adjudicated by the courts (regarding the burden of proof and the award of potential higher damages)? Have these cases been treated under one single ground or as multiple discrimination cases?*

There are no cases regarding multiple discrimination known to the authors.

### **2.1.2 Assumed and associated discrimination**

- a) *Does national law (including case law) prohibit discrimination based on perception or assumption of what a person is? (e.g. where a person is discriminated against because another person assumes that he/she is a Muslim or has a certain sexual orientation, even though that turns out to be an incorrect perception or assumption).*

There is no known case law on the subject of a wrong perception of what a person is. The law is silent on this subject.

- b) *Does national law (including case law) prohibit discrimination based on association with persons with particular characteristics (e.g. association with persons of a particular ethnic group or the primary career of a disabled person)? If so, how? Is national law in line with the judgment in Case C-303/06 Coleman v Attridge Law and Steve Law?*

The AEPD prohibits discrimination against persons who assist people with a disability on a temporary basis or who take care of them, or who report or take action against an act of discrimination on the grounds of disability (Art. 5 par 4). There are no further provisions concerning discrimination based on association with persons with particular characteristics, neither regarding people with disabilities, nor discrimination on other grounds.

## 2.2 Direct discrimination (Article 2(2)(a))

- a) *How is direct discrimination defined in national law?*

Direct discrimination is defined in Liechtenstein law as when a person is treated less favourably than another has been or would be treated in a comparable situation. Direct discrimination according to this legal definition only occurs on grounds of disability (AEPD Art.6 §1) and on grounds of gender (AEWM Art.1a).

- b) *Are discriminatory statements or discriminatory job vacancy announcements capable of constituting direct discrimination in national law? (as in Case C-54/07 Firma Feryn).*

Since all those different acts and conventions have been incorporated into various national laws, it can be said that any kind of discrimination in job vacancies or in other announcements can to some extent be seen as direct discrimination. An exception is if there are obvious reasons why for instance only a man or a woman or a person with special characteristics, skills or knowledge is qualified for the vacant position (AEPD Art.10 §3 and AEWM Art.3 §4). For such genuine and determining occupational requirements, different treatment is allowed. Disability can be a reason why somebody does not fit into the job requirement. The same holds for gender (advertising for an actor or an actress for example), or for religion and belief (advertising for a priest). There are no such exceptions provided for sexual orientation, race and ethnic origin. As long as there do exist obvious reasons for specific job requirements, this would not be interpreted as discriminating against people with disabilities or people with other characteristics. Regarding gender, most job vacancies nowadays are explicitly announced in advertisements for male and female applicants and are therefore labelled with (w/m) after the job title.

- c) *Does the law permit justification of direct discrimination generally, or in relation to particular grounds? If so, what test must be satisfied to justify direct discrimination? (See also 4.7.1 below).*

There is no explicit justification of direct discrimination relating to sexual orientation, age, religion and belief, or ethnic origin. However, exceptions and different treatment are allowed if, for instance, special knowledge, skills, physical conditions or other characteristics are required for a job. These “objectively justified” provisions can also discriminate against people with disabilities (Art.10 §3 AEPD) or discriminate against on grounds of gender, or justify different treatment.

In addition, jobs in the public services can be restricted to Liechtenstein citizens, but race and ethnicity would not be permitted as selection criteria.

- d) *In relation to age discrimination, if the definition is based on ‘less favourable treatment’ does the law specify how a comparison is to be made?*

There are no such specifications.

### 2.2.1 Situation Testing

- a) *Does national law clearly permit or prohibit the use of ‘situation testing’? If so, how is this defined and what are the procedural conditions for admissibility of such evidence in court? For what discrimination grounds is situation testing permitted? If not all grounds are included, what are the reasons given for this limitation? If the law is silent please indicate.*

Due to the low regulatory density and the limited capacity of civil society actors within Liechtenstein, thus far, there are no legal provisions or practical examples for situation testing in Liechtenstein.

- b) *Outline how situation testing is used in practice and by whom (e.g. NGOs, equality body, etc).*

See 2.2.1 a).

- c) *Is there any reluctance to use situation testing as evidence in court (e.g. ethical or methodology issues)? In this respect, does evolution in other countries influence your national law (European strategic litigation issue)?*

See 2.2.1 a).

- d) *Outline important case law within the national legal system on this issue.*

See 2.2.1 a).



## 2.3 Indirect discrimination (Article 2(2)(b))

### a) *How is indirect discrimination defined in national law?*

Indirect discrimination is when apparently neutral provisions, criteria or procedures would put persons of a specific ground of discrimination at a particular disadvantage compared to other persons. Indirect discrimination is only defined on grounds of disability (AEPD Art. 6 §2) and gender (AEWM Art. 1a).

### b) *What test must be satisfied to justify indirect discrimination? What are the legitimate aims that can be accepted by courts? Do the legitimate aims as accepted by courts have the same value as the general principle of equality, from a human rights perspective, as prescribed in domestic law? What is considered as an appropriate and necessary measure to pursue a legitimate aim?*

According to the AEPD (Art. 6 §2) and the AEWM (Art. 1a) the differential treatment is objectively justified if provisions, criteria or procedures are necessary in order to achieve a legitimate aim. In addition, the means of achieving that aim have to be appropriate. Liechtenstein law thus states that justification of indirect discrimination is possible in certain situations. In addition, Art. 3 §4 and Art.4a §5 of the AEWM list certain conditions under which gender specific measures do not represent discrimination, e.g. if the specific gender is an essential requirement for carrying out particular occupational activities (similar to Directive 2000/78/EC Art. 4).

### c) *Is this compatible with the Directives?*

The justification for indirect discrimination in Liechtenstein law is compatible with the Directives.

### d) *In relation to age discrimination, does the law specify how a comparison is to be made?*

The AEWM and the AEPD do not include age discrimination.

### e) *Have differences in treatment based on language been perceived as potential indirect discrimination on the grounds of racial or ethnic origin?*

There are no known cases dealing with discrimination based on language. Law is silent on this subject. However, language requirements play an important role in respect of the integration of foreigners. According to the Liechtenstein Act on Foreigners (AF)<sup>20</sup> (Art. 6) as well as the Liechtenstein Act on Free Movement of Persons of EEA and Swiss citizens (AFM)<sup>21</sup> (Art. 5) foreigners are obliged to learn

<sup>20</sup> Gesetz vom 17. September 2008 über die Ausländer (Ausländergesetz; AuG), LGBl. 2008 Nr. 311.

<sup>21</sup> Gesetz vom 20. November 2009 über die Freizügigkeit für EWR- und Schweizer Staatsangehörige (Personenfreizügigkeitsgesetz; PFZG), LGBl. 2009 Nr. 348.

the German language in both speech and writing. In job advertisements, a good command of German language is not a common requirement, probably since the employer expects this anyway in most cases. But language skills – not necessarily knowledge of the German language – can be part of a job profile. This is not interpreted as discriminating.

### 2.3.1 Statistical Evidence

- a) *Does national law permit the use of statistical evidence to establish indirect discrimination? If so, what are the conditions for it to be admissible in court?*

Statistical Evidence is not mentioned in the context of discrimination.

- b) *Is the use of such evidence widespread? Is there any reluctance to use statistical data as evidence in court (e.g. ethical or methodology issues)? In this respect, does evolution in other countries influence your national law (European strategic litigation issue)?*

There are no cases known to the authors.

- c) *Please illustrate the most important case law in this area.*

There are no cases known to the authors on this subject.

- d) *Are there national rules which permit data collection? Please answer in respect to all five grounds. The aim of this question is to find out whether or not data collection is allowed for the purposes of litigation and positive action measures. Specifically, are statistical data used to design positive action measures? How are these data collected/ generated?*

Legal restrictions concerning the collection of data are given by the Data Protection Act (DPA)<sup>22</sup> which refers to EU Directive 95/46/EG of 24 October 1995. Art. 3 §1 e) of the DPA defines the following data as especially sensitive personal data that have to be protected in particular: data regarding religious, ideological or political beliefs; data regarding health, privacy (*Intimsphäre*) and race/ethnicity; data regarding social security assistance; data regarding administrative and penal prosecution.

There are, though, exceptions laid down in the DPA for statistical or scientific purposes (Art. 5 §4). The DPA is valid in a different way for private and for public actors (data processing by private persons and by authorities). The administration may only process data if this is clearly intended by a legal act. The DPA provides many additional restrictions and also exceptions to data collection and processing, including an Office for Data Protection, which has been installed.

<sup>22</sup> Datenschutzgesetz vom 14. März 2002 (DSG), LGBl. 2002 Nr. 55.

Additional requirements for data collection by the Department of Statistics are provided for in the Act on Statistics (AS),<sup>23</sup> especially Arts. 16 to 18.

Other statistical data collections, surveys, scientific research projects et al. give additional insight into the status of different social groups. All these data collections and data analysis have to be in line with the above-mentioned legal provisions.

Data collection and statistical services in a very small country such as Liechtenstein are restricted due to the smallness of the country and small size of the population. In addition, data collection in such a small society raises the problem of anonymity. The officer of the Data Protection Agency would have to decide whether data collection for purposes of litigation and positive action measures are allowed or not in a specific case.

## 2.4 Harassment (Article 2(3))

- a) *How is harassment defined in national law? Include reference to criminal offences of harassment insofar as these could be used to tackle discrimination falling within the scope of the Directives.*

The two main Acts on anti-discrimination (AEPD Art. 6; AEWG Art. 1a) prohibit harassment within their specific scope. In general, harassment is defined as unwanted modes of behaviour towards a person with the purpose or the effect of violating the dignity of the person and of creating an intimidating, hostile, degrading, humiliating or abusive environment. Such behaviour can refer to disability or can be gender-related. Regarding gender-specific discrimination, the AEWG covers also sexual harassment, which is defined as unwanted modes of sexual behaviour expressed in a verbal, nonverbal, or physical way with the purpose or the effect of violating the dignity of the person (without distinction of sex).

- b) *Is harassment prohibited as a form of discrimination?*

Yes, harassment is a type of discrimination. It is therefore considered as discrimination and is prohibited as a form of discrimination. Art. 8 of the AEPD clearly states that harassment constitutes discrimination. A similar statement is shown in the AEWG (Art. 4): "Harassment and sexual harassment, as well as instructing another to carry out the same, are considered to be discrimination based on gender".

- c) *Are there any additional sources on the concept of harassment (e.g. an official Code of Practice)?*

There are no additional sources on the concept of harassment.

<sup>23</sup> Statistikgesetz vom 17. September 2008 (StatG), LGBl 2008 Nr. 271.





## 2.5 Instructions to discriminate (Article 2(4))

*Does national law (including case law) prohibit instructions to discriminate? If yes, does it contain any specific provisions regarding the liability of legal persons for such actions?*

Art. 9 of the AEPD states that discrimination is also present if a person instructs another to discriminate or harass on the grounds of a disability.

Art. 3 of the AEWG similarly states that discrimination is also present if a person instructs someone to discriminate against another person on grounds of gender (without distinction of sex).

## 2.6 Reasonable accommodation duties (Article 2(2)(b)(ii) and Article 5 Directive 2000/78)

a) *How does national law implement the duty to provide reasonable accommodation for people with disabilities? In particular, specify when the duty applies, the criteria for assessing the extent of the duty and any definition of 'reasonable'. For example, does national law define what would be a "disproportionate burden" for employers or is the availability of financial assistance from the State taken into account in assessing whether there is a disproportionate burden?*

Art. 7 of the AEPD provides details on undue burden (*unverhältnismässige Belastungen*) that may justify unequal treatment and prevent that this is regarded as indirect discrimination (cf. 2.3a for definition of indirect discrimination).

Art. 7 §2 regulates that, above all, the following criteria have to be taken into consideration when proving whether "undue burden" is given or not:

- the costs of the accommodation;
- the resources of the enterprise;
- the extent to which public assistance is available;
- the time period between the entering into force of the AEPD and the complaint;
- the effect on the concerns of people with disabilities.

To summarise, the provisions of Art. 19 and 20 are rather vague, activities are limited in time, and there are no strict obligations for employers stated. Thus, adaption of workplaces and other integration activities are to be developed on a case-by-case basis, whilst binding and strong legal obligations to employers are missing in the Liechtenstein legislation.

Segregation is practiced more regularly than integration into the common work environment. According to Art. 82 of the Disability Insurance, the Insurance can support public and private, non-profit care residences, integration centres, and

sheltered workshops for people with disabilities. All of them are specialised to assist people with disabilities.

- b) *Does national law provide for a duty to provide a reasonable accommodation for people with disabilities in areas outside employment? Does the definition of “disproportionate burden” in this context, as contained in legislation and developed in case law, differ in any way from the definition used with regard to employment?*

Art. 7 of the AEPD (cf. section 2.6a) is not restricted to the employment area. Articles 5 to 9 are under the title of “protection from discrimination in general”. Art. 6 §2 on indirect discrimination names “provisions, criteria, procedures and characteristics of arranged areas of life” (*gestaltete Lebensbereiche*) which have to be arranged in a way that they do not discriminate against people with disabilities, as long as this is objectively justified and the means to reach this goal are due and necessary. The term of “arranged areas of life” obviously goes far beyond employment.

Art. 18 of the AEPD goes on measures in education (cf. 3.2.8). According to Art. 18, early intervention and basic training that is customized to their specific needs must be ensured by the state (§1). §2 requests that the state promotes appropriate forms of training and also adequate training and support for teachers to integrate children and young people with disabilities into regular schools. §3 finally requests that the state ensures that children and young people with disabilities receive vocational education with respect to their special needs, abilities and interests.

Art. 13 of the AEPD provides for a duty to provide reasonable accommodations for people with disabilities outside of their employment; this duty is qualified, however. Buildings which were built before the act came into force should be adapted at the next major renovation; buildings which, for any reason, cannot be adapted may be exempted by the government. See also a).

- c) *Does failure to meet the duty of reasonable accommodation count as discrimination? Is there a justification defence? How does this relate to the prohibition of direct and indirect discrimination?*

Yes. Art. 7 §3 of the AEPD states that indirect discrimination is also given if no attempts were undertaken to accommodate the situation of a concerned person. In case that indirect discrimination is a consequence of barriers, Art. 7 §4 states that it must be proved whether legal provisions regarding accessibility exist, and if so, whether the legal tasks are fulfilled.

- d) *Has national law (including case law) implemented the duty to provide reasonable accommodation in respect of any of the other grounds (e.g. religion)?*

There are no such references.

- e) *Does national law clearly provide for the shift of the burden of proof, when claiming the right to reasonable accommodation?*

With reference to direct discrimination and according to Art. 26 §2 it is obligatory on the defendant to prove that it is more likely in all the circumstances that he claims to have another reason for the difference in treatment and that this reason is crucial. Art. 26 §3 states that when citing a reference to harassment as well as indirect discrimination, it is obligatory on the defendant to prove that in consideration of all circumstances it is more likely that the facts substantiated by him are truthfully. The provisions of Art. 26 refer to the section of protection of discrimination in general and in employment (Arts. 5 to 10 of the AEPD).

In other cases the complaining person has to make the claim credible. Art. 26 of the AEPD on the burden of proof states in §1 that when a person claims to be discriminated against according to Arts. 5 to 10, this person shall make this claim credible.

The second part of article 26 states that the defendant can try to prove that he has another reason for the difference in treatment and that this reason is crucial. This can also be applied to the right to reasonable accommodation. If the defendant can come up with a reasonable and crucial reason for him to have ignored the law on reasonable accommodation the courts can exonerate him.

There are no such provisions regarding disproportionate burden test.

- f) *Does national law require services available to the public, buildings and infrastructure to be designed and built in a disability-accessible way? If so, could and has a failure to comply with such legislation be relied upon in a discrimination case based on the legislation transposing Directive 2000/78?*

The AEPD includes various articles (11 to 14) focusing on reasonable accommodation for people with disabilities – in their apartments and homes, at their workplace and in any public building. According to the AEPD, public buildings must be constructed in a way that gives people with disabilities the possibility to move around freely. If buildings are not convenient for people with disabilities – especially public places – they must be adapted in order to give people with disabilities the freedom to move around freely as soon as work has been completed on the building. Houses with six or more apartments which were constructed before the law entered into force must be adapted at the first major renovation the house undergoes in order to give people with disabilities access and free movement. If such a building is constructed under the new law, it must be accessible from the beginning. However, if there are problems with space etc. the government may make an exception. The reasons, though, must be valid and the problem of providing unfettered access must be unsolvable. These subjects are treated in Art. 11 – 14 of the AEPD.

Art. 12 on publicly accessible buildings and facilities in the AEPD states that:

1. Public buildings and facilities, for which, after the commencement of this Act, a building code permit is granted, shall be made accessible to all.
2. Public buildings and facilities, for which building regulations have been approved before the date of this Act, insofar as they are not already accessible, need to be modified and changed to make them accessible. This does not include buildings undergoing maintenance and renovation work, and work without extensive intervention in the buildings brickwork.
3. The planning authority is obliged to provide, under the building permit process, the regulations which are to be complied with in accordance with paragraphs 1 and 2. Building permits are to be provided with appropriate conditions.
4. As part of the building permit process, the planning authority has to inform the disability organizations that primarily work for the rights and interests of people with disabilities about planning applications in accordance with paragraphs 1 and 2. They should be allowed, within a reasonable period, to comply with the regulations on accessibility. Disability organizations which have exercised their right to submit comments are eligible for appeal.
5. As part of the final building inspection, the building authority has to invite representatives of disability organizations which have agreed to participate in the final building inspection. They are granted the opportunity to inform the planning authority of their final acceptance and of any violations against accessibility. Other rights available to disability organizations as part of the final building inspection do not apply.
6. Public buildings and facilities which are approved by the planning authority without any objections, or where objections have been resolved, count as barrier-free.
7. In particular cases the building authority can permit exceptions to the barrier-free rule, or it can, in cases of renovation or maintenance according to §2, dictate measures for barrier-free access.
8. The owner, executive planners, construction management, engineers as well as contractors are responsible for the implementation of accessibility provisions after the granting of planning permission.

Art. 23 §5 on Legal Claims states that: “If the discrimination consists in the violation of the provisions on accessibility and adaptability according to articles 11 to 16, the assertion of claims under section 1 and 2 is excluded. If in civil cases the claim is made that discrimination is based on a violation of the provisions on the accessibility and adaptability, the court shall rule on the objection without interrupting the process itself.

This clearly shows that the national law requires public buildings and infrastructures to be designed, built, and possibly adapted in a disability-accessible way. If anyone fails to comply, the courts will have to decide on the penalties.

There is no case law known to the authors.

- g) *Does national law contain a general duty to provide accessibility for people with disabilities by anticipation? If so, how is accessibility defined, in what fields (employment, social protection, goods and services, transport, housing, education, etc.) and who is covered by this obligation? On what grounds can a failure to provide accessibility be justified?*

Art. 3 §1g of the AEPD defines accessibility as follows: Accessibility (*Barrierefreiheit*) is given when built features of the landscape designed for public use are accessible and usable for people with disabilities in the usual way, without any particular difficulty and in principle without assistance from others. According to Art.12 AEPD new public buildings must be constructed in an accessible way, existing buildings must be adopted as soon as they are renewed. Private housing areas with more than six apartments also have to be accessible to people with disabilities, and Art. 14 of the AEPD states that residential buildings are only subsidised if they are adaptable. Exceptions can be made concerning public buildings (Art. 12 §7 AEPD) and also to private housing areas if the terrain is difficult to realize accessibility (Art. 13 §1). The Office for Equality of People with Disabilities must be consulted before an exception is permitted.

- h) *Please explain briefly the existing national legislation concerning people with disabilities (beyond the simple prohibition of discrimination). Does national law provide for special rights for people with disabilities?*

The AEPD in Liechtenstein has to be mentioned first. It supports and demands special activities in favour of people with disabilities. The main focus of the act is to make sure that people with disabilities are treated in a way that allows them to live like people without disabilities – at home, at their workplace, and anywhere else. This includes provisions and measures regarding employment, education, public transport, barrier-free accessibility to buildings, to public services and administration.

The Act on Disability Insurance (ADI)<sup>24</sup> provides additional regulations and assistance for people with disabilities. Besides financial benefits (disability pension) it seeks to assist people in employment (Arts. 39-44) by specific career counselling, job services, vocational training, and capital assistance in cases of self-employment.

## 2.7 Sheltered or semi-sheltered accommodation/employment

- a) *To what extent does national law make provision for sheltered or semi-sheltered accommodation/employment for workers with disabilities?*

Sheltered and semi-sheltered accommodation and employment is organized by two private association, the Special Education Centre<sup>25</sup> and the Association for Sheltered Housing.<sup>26</sup> These non-profit societies run several sheltered workshops and sheltered

<sup>24</sup> Gesetz vom 23. Dezember 1959 über die Invalidenversicherung (IVG), LGBl. 1959 Nr. 5.

<sup>25</sup> Heilpädagogisches Zentrum des Fürstentums Liechtenstein (HPZ): <http://www.hpz.li>.

<sup>26</sup> Verein für betreutes Wohnen (VBW): <http://www.vbw.li>.

residential homes. It is financially supported by the public. Art. 80 of the ADI states that private non-profit organizations assisting people with disabilities may receive financial support from the disability insurance.

b) *Would such activities be considered to constitute employment under national law - including for the purposes of the application of the anti-discrimination law?*

Disabled people working in sheltered workshops are not to be considered as employees according to the AEICT, although this is not explicitly stated as an exception in the employment law.



### 3 PERSONAL AND MATERIAL SCOPE

#### 3.1 Personal scope

##### 3.1.1 EU and non-EU nationals (Recital 13 and Article 3(2) Directive 2000/43 and Recital 12 and Article 3(2) Directive 2000/78)

*Are there residence or citizenship/nationality requirements for protection under the relevant national laws transposing the Directives?*

The rights of Liechtenstein citizens and foreigners are basically stated in the Constitution<sup>27</sup> of 1921:

#### Article 28

- 1) Every Liechtenstein citizen shall have the right to reside freely in any location within the territory of the State and to acquire all forms of property, in accordance with further detailed legal provisions.
- 2) The entry and exit, stay and residence of foreigners shall be governed by international treaties and by legislation.
- 3) Persons present within the borders of the Principality shall be bound to observe its laws and shall be entitled to the protection afforded by the Constitution and the other laws.

#### Article 31

- 1) All Liechtenstein citizens shall be equal before the law. Public offices shall be equally open to them, subject to observance of the legal provisions.
- 2) Men and women shall enjoy equal rights.
- 3) The rights of foreigners shall be determined in the first instance by international treaties, or, in their absence, by reciprocity.

The term “Liechtenstein citizens” (*Landesangehörige*) in the constitution is to be understood as referring to all persons holding Liechtenstein national citizenship without distinction of sex.<sup>28</sup> Foreigners are excluded from this definition.

Regarding the AEPD, there is no difference made between Liechtenstein citizens and others. Special provisions regarding racial discrimination are contained in Art. 283 of the Penal Code (PC).<sup>29</sup> Again there is no distinction made between Liechtenstein

<sup>27</sup> Constitution of the Principality of Liechtenstein. <http://www.llv.li/verfassung-e-01-02-09.doc.pdf>.

<sup>28</sup> The appendix “without distinction of sex” makes sense because in German language there is a difference between male citizens (*der Landesangehörige*) and female citizens (*die Landesangehörige*). The constitution only uses the male term (*der Landesangehörige*), but this term includes also women. This was explicitly stated in an Act on the amendment of the constitution (LGBl. 1971 no 22).

<sup>29</sup> Strafgesetzbuch (StGB) vom 24. Juni 1987; LGBl. 1988 Nr. 37.

citizens and foreigners. Protection from racial discrimination is independent of citizenship. Thus, foreigners are also entitled to protection from racial discrimination.

### 3.1.2 Natural persons and legal persons (Recital 16 Directive 2000/43)

*Does national law distinguish between natural persons and legal persons, either for purposes of protection against discrimination or liability for discrimination?*

The Personal and Corporate Law (PCL)<sup>30</sup> distinguishes between a natural person (*Einzelperson/natürliche Person*) and a legal person (*Verbandsperson/juristische Person*). Regarding discrimination, the law does not make a difference between natural and legal persons.

Concerning protection against discrimination on grounds of disability, the AEPD as well as the AEWG focus on natural persons. Art. 23 §1 of the AEPD covers the restitution of any financial losses incurred and compensation for the personal detriment suffered. Only persons, i.e. natural persons, are mentioned there. There is no such restriction concerning liability.

### 3.1.3 Scope of liability

*What is the scope of liability for discrimination (including harassment and instruction to discriminate)? Specifically, can employers or (in the case of racial or ethnic origin) service providers (e.g. landlords, schools, hospitals) be held liable for the actions of employees? Can they be held liable for actions of third parties (e.g. tenants, clients or customers)? Can the individual harasser or discriminator (e.g. co-worker or client) be held liable? Can trade unions or other trade/professional associations be held liable for actions of their members?*

The scope of liability for discrimination is rather wide. Employers may be held liable for actions of employees. Art. 10 §2 of the AEPD states that discrimination also exists when an employer, in the event of harassment by employees, fails to act in accordance with statutory regulations, norms and standards in the labour contract to remedy the situation. This means that the employer can also be punished. In addition, Art. 3 §3 of the AEWG, as well as Art. 9 of the AEPD, stipulate liability for people who give instructions to discriminate. Since there are no further references it can be assumed that service providers cannot be held directly liable for actions of third parties as long as they are not directly involved in the incident or instruction (see also PC §283).

## 3.2 Material Scope

### 3.2.1 Employment, self-employment and occupation

<sup>30</sup> Personen- und Gesellschaftsrecht (PGR) vom 20. Januar 1926, LGBl. 1926 Nr. 4.

*Does national legislation apply to all sectors of public and private employment and occupation, including contract work, self-employment, military service, holding statutory office?*

National legislation applies to all sectors of public and private employment. However, in the sector of public employment certain provisions of a specific law seek to prevent discrimination as a consequence of gender or disability. Military service does not exist in Liechtenstein.

*In paragraphs 3.2.2 - 3.2.5 (4.2.2.-4.2.5?), you should specify if each of the following areas is fully and expressly covered by national law for each of the grounds covered by the Directives.*

**3.2.2 Conditions for access to employment, to self-employment or to occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy (Article 3(1)(a)). Is the public sector dealt with differently to the private sector?**

Art. 5 of the AEPD states that nobody shall be discriminated against due to disability. Art. 10 §1 states that people with disabilities may not be discriminated against as employees in the public and in the private sector or at any other workplace, either directly or indirectly. There are exceptions to this general rule provided in Art. 10 §3 and §4. Art.10 §3 states that discrimination does not apply if a special attribute is necessary to fulfil the professional task and the disabled person concerned does not fit into this scheme. Art.10 §4 states that wages may be in relation to merits, without this being regarded as discrimination.

The anti-discrimination provisions in Art. 10 also include the aspects of recruitment, payment, voluntary social security benefits, vocational training, occupational career and promotion, other working conditions, termination of employment, accessibility to job services, vocational training and other services outside an employment contract, membership and co-operation in trade unions, and conditions for the access to self-employment (Art. 10 §1 lit. a to lit. k).

Art. 3 of the AEWPM states that women may not be discriminated against, especially due to marriage, pregnancy or motherhood, neither directly nor indirectly. Different treatment is allowed to provide better conditions for women with respect to pregnancy and motherhood.

As there are no specific references in the AEPD it can be assumed that the scope of discrimination covers all aspects of the conditions for access to employment, to self-employment or to occupation. However, in relation to the public sector, discrimination

is further limited by the Act on the Employment of Public Officials,<sup>31</sup> which explicitly names the guarantee of equal opportunities for women and men (Art. 4 §2f), as well as the integration of people with special needs, such as people with disabilities (Art. 4 §2i), as an objective of personnel policy, whereas there are no such positive statements relating to the private sector.

### **3.2.3 Employment and working conditions, including pay and dismissals (Article 3(1)(c))**

*In respect of occupational pensions, how does national law ensure the prohibition of discrimination on all the grounds covered by Directive 2000/78 EC? NB: Case C-267/06 Maruko confirmed that occupational pensions constitute part of an employee's pay under Directive 2000/78 EC.*

*Note that this can include contractual conditions of employment as well as the conditions in which work is, or is expected to be, carried out.*

The pension age in Liechtenstein is 64 years for both men and women.<sup>32</sup> Retirement planning is based on three pillars: the general national pension, the company pension and private savings. There is no distinction made between men and women, nor between Liechtenstein citizens and foreigners or people with disabilities and others. Nevertheless, there are differences in the amount of pension since the company pension in particular depends on how much capital was paid into the pension account during professionally active years. The general national pension, to a lesser degree, is also dependent on the duration of the professional career, but the differences between the minimum and the maximum pensions are not so great. For these reasons, people with limited opportunities on the labour market have significantly lower pensions than others.

There are explicit anti-discrimination provisions in the AEPD and in the AEWM (cf. 3.2.2), thus including discrimination on grounds of disability and gender. For other grounds of discrimination, judicial interpretation is required to confirm whether rather general provisions in the constitution, in international treaties and in national law is sufficient to protect against discrimination.

### **3.2.4 Access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience (Article 3(1)(b))**

*Note that there is an overlap between 'vocational training' and 'education'. For example, university courses have been treated as vocational training in the past by the Court of Justice. Other courses, especially those taken after leaving school, may*

<sup>31</sup> Gesetz vom 24. April 2008 über das Dienstverhältnis des Staatspersonals (Staatspersonalgesetz; StPG), LGBl. 2008 Nr. 144.

<sup>32</sup> Art. 55 of the National Old Age and Widow's/Widower's Pension (NOWP). Gesetz vom 14. Dezember 1952 über die Alters- und Hinterlassenenversicherung (AHVG), LGBl. 1952 Nr. 29.

*fall into this category. Does the national anti-discrimination law apply to vocational training outside the employment relationship, such as that provided by technical schools or universities, or such as adult life long learning courses?*

The AEW (Art. 3 §2) and AEDP (Art. 10 §1) cover all types and stages of vocational training and education. This includes the access to careers guidance, vocational training, retraining, and further training, as well as access to practical professional experience. The AEW includes in particular access to self-employment. In addition to the AEW and AEDP, the Act on Vocational Training (AVT, Art. 1c)<sup>33</sup> promotes, among others, the equal treatment of women and men as well as the elimination of discrimination against people with disabilities.

### **3.2.5 Membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations (Article 3(1)(d))**

*In relation to paragraphs 3.2.6 – 3.2.10 you should focus on how discrimination based on racial or ethnic origin is covered by national law, but you should also mention if the law extends to other grounds.*

According to the AEDP (Art. 10 §1) and the AEW (Art. 3 §2) people cannot be treated less favourably based on gender or disability in respect of membership of an organisation of workers or employers, or any organisation whose members carry on a particular profession. Contravention of this rule represents discrimination.

Membership of organisations of workers or employers is also covered as a separate reason for discrimination related to employment. Members of such organisations cannot be treated less favourably in their work (Art. 10 AIC).

### **3.2.6 Social protection, including social security and healthcare (Article 3(1)(e) Directive 2000/43)**

*In relation to religion or belief, age, disability and sexual orientation, does national law seek to rely on the exception in Article 3(3), Directive 2000/78?*

There are no specific provisions which refer to discrimination based on religion or belief, age, disability, race and ethnic origin or sexual orientation in respect of social protection.

Generally, Liechtenstein provides many social security services to individuals and client systems. The main act in this regard is the Act on Social Help (ASH).<sup>34</sup> There are no distinct provisions in relation to race and ethnic origin in this area.

<sup>33</sup> Berufsbildungsgesetz (BBG) vom 13. März 2008, LGBl. 2008 Nr. 103.

<sup>34</sup> Sozialhilfegesetz vom 15. November 1984, LGBl. 1985 no 17.

Many additional instruments to support people in need are provided in the Act on Supplementary Aid to the National Old Age and Widow's/Widower's Pension (ASANP).<sup>35</sup>

There is also financial assistance for people who cannot afford accommodation (Act on Rent Allowance for Families, ARAF).<sup>36</sup> Rent allowance is restricted to Liechtenstein residents who have to support dependent persons in their own household (immature children, parents etc.) and whose household income lies below defined thresholds.

A special act provides support for blind people (Act on Assistance for Blind People, AABP).<sup>37</sup>

There are many other legal provisions in different acts that support individuals, families or client systems by financial or other means. Not only the state and its administration is involved in the activities of social assistance but municipal authorities and private associations as well.

### 3.2.7 Social advantages (Article 3(1)(f) Directive 2000/43)

*This covers a broad category of benefits that may be provided by either public or private actors to people because of their employment or residence status, for example reduced rate train travel for large families, child birth grants, funeral grants and discounts on access to municipal leisure facilities. It may be difficult to give an exhaustive analysis of whether this category is fully covered in national law, but you should indicate whether national law explicitly addresses the category of 'social advantages' or if discrimination in this area is likely to be unlawful.*

In the last decades Liechtenstein has economically very well developed. This allowed the state and the municipalities to give a wide range of benefits to groups of persons with lower income. Thus, tax reduction for families, child birth grants, monthly extra pay for children, discounts for access to public buses and facilities for young and old people and many other benefits are implemented. Support in this regard is not interpreted as being discriminating against others. The benefits are provided to all people or to people with special characteristics, e.g. age or income, yet not discriminating for any grounds such as gender, disability, sexual orientation, race and ethnicity, religion and belief.

<sup>35</sup> G vom 10. Dezember 1965 über Ergänzungsleistungen zur Alters-, Hinterlassenen- und Invalidenversicherung (ELG), LGBl. 1956 no 46.

<sup>36</sup> Gesetz vom 13. September 2000 über Mietbeiträge für Familien, LGBl. 2000 no 202.

<sup>37</sup> Gesetz vom 17. Dezember 1970 über die Gewährung von Blindenbeihilfen (BBHG), LGBl. 1971 no 7.



### 3.2.8 Education (Article 3(1)(g) Directive 2000/43)

*This covers all aspects of education, including all types of schools. Please also consider cases and/or patterns of segregation and discrimination in schools, affecting notably the Roma community and people with disabilities. If these cases and/or patterns exist, please refer also to relevant legal/political discussions that may exist in your country on the issue.*

*Please briefly describe the general approach to education for children with disabilities in your country, and the extent to which mainstream education and segregated “special” education are favoured and supported.*

Art. 18 of the AEPD states:

- 1) The State shall ensure that children and young people with disabilities receive early intervention and a basic training that is customized to their specific needs. Decisive are the provisions of the Education Act.
- 2) The State promotes appropriate forms of training and adequate training and support for teachers to integrate children and young people with disabilities into regular schools. Decisive are the rules of the school and the teacher employment law.
- 3) The State shall further ensure that children and young people with disabilities receive vocational education with respect to their special needs, abilities and interests. The state can participate in the disability-related costs, provided they are not covered by insurance and other benefits.

Most children and young people with disabilities tend to attend the Special Education Centre, especially the ones with mental impairment.<sup>38</sup> There they have the chance to attend a Special Education Day School<sup>39</sup> which gives them individual teaching and prepares them for the professional world. There are also various other organizations which provide children, young people and adults with an interesting and varied program which they are able to attend after school, during weekends and holidays. If possible, children are integrated into the regular schools and assistance by professionals is given in such cases.

There are no specific problems which need to be addressed concerning Roma or other minorities. A Roma minority does not exist in Liechtenstein.

Foreign children, including Turks and Kosovars, are integrated into the regular schools. If there are deficits concerning German language or other skills, special language education and education assistance is given in classes for these children.

<sup>38</sup> Heilpädagogische Zentrum, located in Schaan.

<sup>39</sup> Sonderpädagogische Tagesschule.

### 3.2.9 Access to and supply of goods and services which are available to the public (Article 3(1)(h) Directive 2000/43)

- a) *Does the law distinguish between goods and services available to the public (e.g. in shops, restaurants, banks) and those only available privately (e.g. limited to members of a private association)? If so, explain the content of this distinction.*

In principle, the Liechtenstein legislation on discrimination does not differ between goods and services available to the public and those only available privately. Nonetheless, the principle of non-discrimination is more strongly anchored within the public sector as there are additional laws.

The AEPD act aims at eliminating and preventing discrimination against people with disabilities. It aims to guarantee equal participation by people with disabilities in the daily life of society.

The AEW (Art. 3 §4; Art. 4a §5) allows different treatment on the grounds of sex. This applies first to the calculation of contributions and benefits of the voluntary occupational pension which can differ between women and men if they take into account well-known statistical data, for instance, life expectancy. Secondly, the AEW allows the stipulation of different insurance premiums and benefits for women and men. As an EEA member, the Liechtenstein government does not feel bound by the respective case law of the European Court of Justice, in particular the judgement C-236/09, which declared that using gender as a factor in the assessment of insurance risks is discriminatory.

- b) *Does the law allow for differences in treatment on the grounds of age and disability in the provision of financial services? If so, does the law impose any limitations on how age or disability should be used in this context, e.g. does the assessment of risk have to be based on relevant and accurate actuarial or statistical data?*

To capture differences in treatment on the grounds of age and disability relating to social insurance, one has to differ between obligatory and voluntary insurance. According to the Act on Health Insurance (Art. 9),<sup>40</sup> insurance companies have to offer the obligatory benefits without consideration of the age and health of the applicant. By contrast, they are free to define age limits and to exclude insurance for diseases from which the applicant has suffered in the past.

The Act on Company Personnel Plan (ACPP) (Art. 3)<sup>41</sup> releases employers from the obligation to implement an occupational pension for the individual employee if that employee is disabled to two-thirds. It is not explicitly stated in the law who determines

<sup>40</sup> Gesetz vom 24. November 1971 über die Krankenversicherung (KVG); LGBl. 1971 no 50.

<sup>41</sup> Gesetz vom 20. Oktober 1987 über die betriebliche Personalvorsorge (BPVG); LGBl 1988 Nr. 12.

that an employee is in fact released from the obligation. The degree of disability, on the other hand, is defined and stated by the disability insurance.

### 3.2.10 Housing (Article 3(1)(h) Directive 2000/43)

*To which aspects of housing does the law apply? Are there any exceptions? Please also consider cases and patterns of housing segregation and discrimination against the Roma and other minorities or groups, and the extent to which the law requires or promotes the availability of housing which is accessible to people with disabilities and older people.*

The AEPD (Art. 12-13) protects people with disabilities by ensuring access to public buildings. To this end, the government is obliged to consult the Office for Equal Opportunities,<sup>42</sup> as well as recognized associations for people with disabilities, before formal approval for construction work is granted. Private housing areas with more than six apartments also have to be accessible to people with disabilities and Art. 14 of the AEPD states that residential buildings are only subsidised if they are adaptable to accessibility (if they are not yet accessible from the very beginning).

There are no specific problems which need to be addressed concerning Roma since there is no Roma minority living in Liechtenstein. Turks, Kosovars and other foreigners living in Liechtenstein have the same status as Liechtenstein nationals with respect to different grounds of discrimination. Discrimination on grounds of race, ethnicity or nationality is generally forbidden, though not stated clearly in the law regarding housing. Housing segregation does not occur in the rather rural area of Liechtenstein. However, people with lower income, among them many foreigners from South and South-East Europe, prefer housing at a reasonable price.

---

<sup>42</sup> Stabsstelle für Chancengleichheit: <http://www.llv.li/amtstellen/llv-scg-home.htm>.

## 4 EXCEPTIONS

### 4.1 Genuine and determining occupational requirements (Article 4)

*Does national law provide an exception for genuine and determining occupational requirements? If so, does this comply with Article 4 of Directive 2000/43 and Article 4(1) of Directive 2000/78?*

Yes, the AEW (Art. 3 §4b) provides an exception for genuine and determining occupational requirements in compliance with the EU provisions. This is valid for all occupational areas, thus also including employment in the field of religion and belief (e.g. male priests), although not explicitly stated. The AEPD (Art. 10 §3) states, that exceptions from general anti-discrimination rules can be allowed if special skills, physical condition etc. are required for a job, thus potentially excluding people with disabilities from such jobs.

There are no such reservations for other grounds.

### 4.2 Employers with an ethos based on religion or belief (Art. 4(2) Directive 2000/78)

a) *Does national law provide an exception for employers with an ethos based on religion or belief? If so, does this comply with Article 4(2) of Directive 2000/78?*

Apart from the ECHR, there is no legislation dealing with discrimination against people in the case of employers with an ethos based on religion or belief. ECHR, like several other international treaties, is relevant to Constitutional Court decisions and thus can have an effect on decisions regarding discrimination.

b) *Are there any specific provisions or case law in this area relating to conflicts between the rights of organisations with an ethos based on religion or belief and other rights to non-discrimination? (e.g. organisations with an ethos based on religion v. sexual orientation or other ground).*

There are no specific provisions or case law on this subject. Judicial interpretation is required to see how rather general provisions in the constitution and in international treaties, e.g. the ECHR, are applicable.

c) *Are there cases where religious institutions are permitted to select people (on the basis of their religion) to hire or to dismiss from a job when that job is in a state entity, or in an entity financed by the State (e.g. the Catholic church in Italy or Spain can select religious teachers in state schools)? What are the conditions for such selection? Is this possibility provided for by national law only, or international agreements with the Holy See, or a combination of both?*

Art. 16 Par. 4 of the Constitution states that the respective church-related institutions are responsible for religious education in school. The funding is ensured by the state. The main religion and church in Liechtenstein is the Roman-Catholic Church. Provisions on catholic religion classes are stated in an agreement between the Liechtenstein government and the Archdiocese Vaduz as of 21 January 2003. According to this agreement, the Catholic teachers are selected by the Catholic Church. They must have the necessary theological qualifications as well as pedagogical and didactical qualifications, and they must have a Church permission to teach catholic religion classes. They are nominated by the Church and appointed by the State.

#### **4.3 Armed forces and other specific occupations (Art. 3(4) and Recital 18 Directive 2000/78)**

- a) *Does national law provide for an exception for the armed forces in relation to age or disability discrimination (Article 3(4), Directive 2000/78)?*

There are no armed forces in Liechtenstein, thus no discrimination can occur.

- b) *Are there any provisions or exceptions relating to employment in the police, prison or emergency services (Recital 18, Directive 2000/78)?*

There are no specific provisions. However, the Decree on the Organisation of the Police (Art. 56)<sup>43</sup> states that a candidate for the police can in general not be older than 35 years. In respect of the physical requirements, different minimum requirements apply to women and men. There are no provisions with respect to other grounds of discrimination.

#### **4.4 Nationality discrimination (Art. 3(2))**

*Both the Racial Equality Directive and the Employment Equality Directive include exceptions relating to difference of treatment based on nationality (Article 3(2) in both Directives).*

- a) *How does national law treat nationality discrimination? Does this include stateless status?  
What is the relationship between 'nationality' and 'race or ethnic origin', in particular in the context of indirect discrimination?  
Is there overlap in case law between discrimination on grounds of nationality and ethnicity (i.e. where nationality discrimination may constitute ethnic discrimination as well?)*

<sup>43</sup> Verordnung vom 22. August 2000 über den Dienstbetrieb und die Organisation der Landespolizei (PoIDOV); LGBl. 2000 no 195.

Liechtenstein has a very small inhabitable area with an unusually high percentage of non-national residents and employees. At the end of 2010, 33.2 percent of all inhabitants were aliens. At the work places, about two third of all employees are foreigners. More than half of all employees are commuters, crossing the border from Switzerland or Austria daily and returning there in the evening. Free movement of persons, one of the basic European freedoms, is restricted in Liechtenstein with respect to taking residence. For Liechtenstein, this is a crucial issue and the annually available number of residence permits is limited. In this regard, the Liechtenstein government differentiates between persons of Swiss and EEA nationality, and persons of third countries, when applying different procedures and quotas. This is also valid for integration requirement, e.g. family reunion. There is, however, no discrimination among permanent residents with respect to a specific nationality.

In respect of stateless persons, Liechtenstein asylum law is in line with the EU Schengen provisions. Moreover, Liechtenstein has signed several international agreements, for instance the Convention on the Reduction of Statelessness.<sup>44</sup>

b) *Are there exceptions in anti-discrimination law that seek to rely on Article 3(2)?*

There are no such exceptions.

#### **4.5 Work-related family benefits (Recital 22 Directive 2000/78)**

*Some employers, both public and private, provide benefits to employees in respect of their partners. For example, an employer might provide employees with free or subsidised private health insurance, covering both the employees and their partners. Certain employers limit these benefits to the married partners (e.g. Case C-267/06 Maruko) or unmarried opposite-sex partners of employees. This question aims to establish how national law treats such practices. Please note: this question is focused on benefits provided by the employer. We are not looking for information on state social security arrangements.*

a) *Would it constitute unlawful discrimination in national law if an employer provides benefits that are limited to those employees who are married?*

Thus far, there are no legal provisions or case law dealing with benefits provided by an employer to employees in respect of their partners. As a result, it cannot be determined whether such benefits are unlawful. Taking into account, however, the high importance of the freedom of contracts in Liechtenstein, one might assume that such benefits are lawful. For instance, benefits for extra holiday leave for married couples only thus probably would not be interpreted as discriminating against others. But law is silent on this subject and juridical interpretation is required, albeit not existing. In the state administration, marriage and registered partnership are treated

<sup>44</sup> Übereinkommen vom 30. August 1961 zur Verminderung der Staatenlosigkeit; LGBl. 2009 no 290.



equally concerning such benefits. This is not necessarily the case with other employers, namely employers in the private sector.

- b) *Would it constitute unlawful discrimination in national law if an employer provides benefits that are limited to those employees with opposite-sex partners?*

Yes. Due to the ACUSSC, discrimination on grounds of sexual orientation must be interpreted as unlawful, though not explicitly stated in the law and thus dependent on juridical interpretation. Hence, benefits cannot be confined to opposite-sex partners. The principle of equality of same-sex partnership and married couples is stated in various acts covering special issues, such as the Act on the Pension Scheme for Public Servants (Art. 3a) or the Act on the National Old Age Insurance (Art. 54bis) and entering into force after the enactment of the ACUSSC.

#### **4.6 Health and safety (Art. 7(2) Directive 2000/78)**

- a) *Are there exceptions in relation to disability and health and safety (Article 7(2), Directive 2000/78)?*

Yes, the AEPD allows for positive measures to integrate people with disabilities. However, most positive measures are soft law and Liechtenstein does not have any kind of quotas. Art. 19 of the AEPD covers integration programmes for people with disabilities (education, employment, accommodation, transport, culture, sports); Art. 20 covers pilot projects of integration into work life.

Besides this, there are no exceptions in relation to disability and health and safety.

- b) *Are there exceptions relating to health and safety law in relation to other grounds, for example, ethnic origin or religion where there may be issues of dress or personal appearance (turbans, hair, beards, jewellery, etc)?*

There are no specific provisions.

#### **4.7 Exceptions related to discrimination on the ground of age (Art. 6 Directive 2000/78)**

##### **4.7.1 Direct discrimination**

- a) *Is it possible, generally, or in specified circumstances, to justify direct discrimination on the ground of age? If so, is the test compliant with the test in Article 6, Directive 2000/78, account being taken of the European Court of Justice in the Case C-144/04, Mangold?*

The anti-discrimination legislation of Liechtenstein does not define discrimination on the grounds of age and there are no relevant provisions regarding that (apart from the special protection of children). Hence, there are no exceptions. Since age as a ground of discrimination is not explicitly stated in the law, discrimination on the ground of age must not be justified. Unequal treatment in employment is therefore allowed, for instance by defining a minimum or a maximum age when hiring employees.

There is no case law known to the authors referring to the Mangold case.

b) *Does national law permit differences of treatment based on age for any activities within the material scope of Directive 2000/78?*

See 5.7.1

c) *Does national legislation allow occupational pension schemes to fix ages for admission to the scheme or entitlement to benefits, taking up the possibility provided for by article 6(2)?*

The ACPP (Company Personnel Pension) states in Art. 4 §1 c) that insurance is mandatory after completion of the age of 23 years, if the employment is not limited in time (i.e. temporary).

#### **4.7.2 Special conditions for young people, older workers and persons with caring responsibilities**

*Are there any special conditions set by law for older or younger workers in order to promote their vocational integration, or for persons with caring responsibilities to ensure their protection? If so, please describe these.*

There are no special conditions known to the authors.

#### **4.7.3 Minimum and maximum age requirements**

*Are there exceptions permitting minimum and/or maximum age requirements in relation to access to employment (notably in the public sector) and training?*

Minimum and maximum age requirements are not regulated by the legislation as long as it is not child labour. Provisions on the protection of young employees are enacted in a By-law (*Verordnung*) to the Act on Employment (By-law on Special Provisions for the Protection of Young Employees, LGBI. 2005 no. 69). According to this By-law, employment of children (*Kinder*, i.e. persons below 16 years), and employment of young persons (*Jugendliche*, i.e. persons below 18 years) who attend school, is forbidden. Exceptions can be permitted. There are numerous provisions concerning exclusion of special employment duties (e.g. dangerous work) as well as concerning working hours, rest time, night work etc.

#### 4.7.4 Retirement

*In this question it is important to distinguish between pensionable age (the age set by the state, or by employers or by collective agreements, at which individuals become entitled to a state pension, as distinct from the age at which individuals **actually** retire from work), and mandatory retirement ages (which can be state-imposed, employer-imposed, imposed by an employee's employment contract or imposed by a collective agreement).*

*For these questions, please indicate whether the ages are different for women and men.*

- a) *Is there a state pension age, at which individuals must begin to collect their state pensions? Can this be deferred if an individual wishes to work longer, or can a person collect a pension and still work?*

The state-imposed and generally applicable mandatory retirement age is 64 for women as well as for men. It is possible, however, to draw the pension at a maximum of four years in advance by accepting fixed reductions in the amount payable. At the same time, it is also possible to work longer (at least to the age of 70). There are no differences between women and men in this respect.

- b) *Is there a normal age when people can begin to receive payments from occupational pension schemes and other employer-funded pension arrangements? Can payments from such occupational pension schemes be deferred if an individual wishes to work longer, or can an individual collect a pension and still work?*

See 5.7.4a

- c) *Is there a state-imposed mandatory retirement age(s)? Please state whether this is generally applicable or only in respect of certain sectors, and if so please state which. Have there been recent changes in this respect or are any planned in the near future?*

See 5.7.4a

- d) *Does national law permit employers to set retirement ages (or ages at which the termination of an employment contract is possible) by contract, collective bargaining or unilaterally?*

Yes. Employers, both public and private, have the right to set specific retirement ages.

- e) *Does the law on protection against dismissal and other laws protecting employment rights apply to all workers irrespective of age, if they remain in employment, or are these rights lost on attaining pensionable age or another age (please specify)?*

The respective provisions apply to all workers irrespective of age.

#### **4.7.5 Redundancy**

- a) *Does national law permit age or seniority to be taken into account in selecting workers for redundancy?*

The authors are not familiar with such provisions.

- b) *If national law provides compensation for redundancy, is this affected by the age of the worker?*

The authors are not familiar with any such exceptions.

#### **4.8 Public security, public order, criminal offences, protection of health, protection of the rights and freedoms of others (Article 2(5), Directive 2000/78)**

*Does national law include any exceptions that seek to rely on Article 2(5) of the Employment Equality Directive?*

The authors are not familiar with such exceptions.

#### **4.9 Any other exceptions**

*Please mention any other exceptions to the prohibition of discrimination (on any ground) provided in national law.*

The authors are not familiar with such exceptions.

## 5 POSITIVE ACTION (Article 5 Directive 2000/43, Article 7 Directive 2000/78)

- a) *What scope does national law provide for taking positive action in respect of racial or ethnic origin, religion or belief, disability, age or sexual orientation? Please refer to any important case law or relevant legal/political discussions on this topic.*

Art. 4 on positive measures in the AEPD states that: Specific measures to achieve equal participation of people with a disability in daily life within society are not considered to be discriminatory.

Art. 3 §4a of the AEWG also states this fact: There is no discrimination if: a) appropriate measures are taken to implement practical equality.

Art. 4 of the International Convention on the Elimination of All Forms of Racial Discrimination states that: They [the contract states] commit themselves to adopting immediate and positive measures to eradicate incitement to racial discrimination and all acts of racial discrimination.

There are no similar definitions of positive measures/actions against discrimination based on religion or belief, age, or sexual orientation. This corresponds with the fact that specific acts on these grounds of discrimination are missing. There is no comprehensive anti-discrimination act in Liechtenstein, covering all grounds of discrimination, as well. If there are positive actions on other grounds than disability or gender, this is not clearly stated in the law as a legal commitment. Nevertheless, there are actions, mainly communication campaigns, with respect to aliens or old people, for instance. Such activities are directly supported by the government (e.g. via activities of the Office for Equal Opportunities or the Integration Office at the Alien's Department), or indirectly by mandating private associations with such tasks.

- b) Do measures for positive action exist in your country? Which are the most important? Please provide a list and short description of the measures adopted, classifying them into broad social policy measures, quotas, or preferential treatment narrowly tailored. Refer to measures taken in respect of all five grounds, and in particular refer to the measures related to disability and any quotas for access of people with disabilities to the labour market, any related to Roma and regarding minority rights-based measures.

Measures for positive action exist in Liechtenstein. The following are the most important positive actions in the fight against discrimination.

### Positive actions against discrimination due to disability

Arts. 17 to 20 of the AEPD state that different measures in favour of people with disabilities may be supported. Art. 19 §3 of the AEPD specifies that various programmes may be implemented and supported by the government, including

programmes on vocational training and integration as well as on housing. Art. 20 states that pilot projects on the integration of people with disabilities into the work environment may be supported by the society. The term “society” is not elaborated any further, but one can assume that the government and the municipalities are addressed, maybe also the disability insurance and other public services. These pilot attempts have to be limited in time. One of the measures – according to Art. 20 – is financial support in order to adapt a workplace to the special needs of a person with disability.

There are also measures for speech, hearing or visually impaired people especially in the areas of public transport, dealing with the law, education, the internet and television. This includes for example acoustic information on bus-stops in public buses, or the use of sign language at media conferences of the government. Furthermore, associations for people with disabilities communicate in the newspapers and other media channels on special needs of people with disabilities, for example on the kind of presentation of texts and graphs which makes it easier for concerned persons to understand the content.

There are additional measures in the area of education; this part of the Act declares that the state will provide early intervention and basic education according to the Education Act; that the state also supports special schools with special training for teachers; and that the state will also make sure that these children and young people have a chance in the working world. Priority is for integration of people with disabilities into the regular schools.

There are also programs to integrate people with disabilities. The state promotes this integration, with programmes occurring in the following areas: education, work, living, transport, culture, sports and relief for family members who take on the role of carer. These activities are emphatically communicated by the Liechtenstein newspapers and other media, with assistance of the relevant associations and offices. For instance, sport activities of people with disabilities (Paralympics) are financially supported by the government and there are many news reports on such events.

Art. 20 is about pilot tests for integration into the labour force. In summary: the society (*Gemeinwesen*) can carry out or support pilot projects to explore incentives for the employment of people with disabilities. In practice this means that such activities are supported by the state or municipalities, but it is not restricted to work places in the public sector.

### **Positive action on the equality of Women and Men**

Arts. 18 and 19 of the AEWG also have a section on Positive Action. This is limited to actions regarding gender.

Art. 18 concerns the Commission for the Equality of Women and Men. It summarises the job of this Commission and shows the possibility this Commission has of



minimising discrimination due to gender. It divides the remit of the Commission into five parts: preparing its own recommendations or proposals to the government for measures with regard to gender equality; handing in comments during the consultation process on legislative documents which affect gender equality; preparing opinions at the request of the government or individual members of the government; public relations, reporting on the work of the Commission and events taking place on gender equality; and monitoring developments in terms of gender equality, following up the measures taken and periodically reporting to the government.

Art. 19 of the AEWL defines the tasks of the Office for Equal Opportunities as follows: a) Advising the authorities and private individuals on how to pursue gender equality issues and support victims of discrimination; b) conducting public relations; c) carrying out investigations and recommending appropriate action to authorities and private individuals; d) being involved in drafting rules and regulations; e) working with others on the funding of programs and projects and carrying out or participating in them; f) reviewing applications for funding assistance under articles 16 & 17, as well as monitoring the implementation of programs; g) informing stakeholders about measures taken to achieve equality; h) and exchanging information with relevant European institutions. The Office for Equal Opportunities acts independently on its activities according to lit. a) to c).

There is a clear commitment and obligation of the Commission and the Office for Equal Opportunities regarding gender equality, based on the AEWL. Besides this, the Office operates as a promoting institution with respect to other grounds of discrimination, mandated by the government and without a distinct legal mission. This covers race and ethnicity, sexual orientation, age, religion and belief. The Office does not act independently in these areas and there are no provisions regarding positive action related to these grounds of discrimination.

## 6 REMEDIES AND ENFORCEMENT

### 6.1 Judicial and/or administrative procedures (Article 7 Directive 2000/43, Article 9 Directive 2000/78)

*In relation to each of the following questions please note whether there are different procedures for employment in the private and public sectors.*

*In relation to the procedures described, please indicate any costs or other barriers litigants will face (e.g. necessity to instruct a lawyer?) and any other factors that may act as deterrents to seeking redress (e.g. strict time limits, complex procedures, location of court or other relevant body).*

*Are there available statistics on the number of cases related to discrimination brought to justice? If so, please provide recent data.*

The legal basis for court trials is the Code of Civil Procedure (CCP).<sup>45</sup>

Art. 25 of the AEPD states that the civil courts (part of the Ordinary Courts) are the appropriate authority to decide upon complaints against discrimination on the ground of disability. Any claim shall be adjudicated according to the CCP, except regarding Art. 26 of the AEPD which provides special provisions on the burden of proof (cf. 3.6 e). Art. 12 of the AEWG similarly states that disputes on discrimination have to be brought to the Ordinary Courts (first instance of the ordinary jurisdiction, followed by the Upper Court and the High Court as last instance).

Complaints regarding anti-discrimination provisions of the Penal Code (race, ethnicity et al.) are also adjudicated by the Ordinary Courts at the first instance.

Procedures for addressing discrimination are not the same for employment in the private and the public sector. Whereas in private disputes the ordinary court is the first judicial authority, in disputes between individuals and the public it is the Administrative Court (part of the public jurisdiction, followed by the Constitutional Court as last instance).

There is no legal provision which demands the use of a lawyer when bringing a complaint before the court, although this is probably helpful. Art. 25 of the CCP states that court procedures can be carried out in person or by a representative (cf. a lawyer).

Arts. 63 to 73 of the CCP concern assistance for court trials (*Verfahrenshilfe*). Assistance has to be provided for persons if they are not able to finance a trial without this having a negative effect on their ability to feed themselves properly. This holds for anybody, not just people with disabilities or other groups with specific characters.

<sup>45</sup> Gesetz vom 10. Dezember 1912 über das gerichtliche Verfahren in bürgerlichen Rechtsstreitigkeiten (Zivilprozessordnung; ZPO), LGBl. 1912 Nr. 9/1.

The time schedule for court proceedings is either ruled in particular acts, or, if this is not the case, the judge can decide on deadlines with respect to the needs and the character of the specific court case.

Since Liechtenstein is a very small country and all national judicial authorities are located in Liechtenstein, the territorial distances to the courts are very short.

There is only limited information and data available regarding court cases, especially cases at the first instance (Ordinary Court).

a) *What procedures exist for enforcing the principle of equal treatment (judicial/administrative/alternative dispute resolution such as mediation)?*

There are no specific provisions enforcing the principle of equal treatment at court proceedings.

Art. 11 of the AEWL states that the ordinary court designates an arbitration board (“*Schlichtungsstelle*”) which tries to achieve an agreement between the conflicting parties instead of starting a trial before the court.

In 2005 the Act on Mediation in Civil Law Cases (AMCLC)<sup>46</sup> entered into force. This law provides for definitions of mediation and mediators as well as the rights and duties of mediators. Mandatory mediation in particular law cases, though, has not yet been introduced. Once this is implemented it might open a way to bringing a complaint without the financial risk of carrying on a process in the court.

b) *Are these binding or non-binding?*

Decisions taken by the courts are binding if there is no appeal to the higher judicial authority.

See also a).

c) *What is the time limit within which a procedure must be initiated?*

Art. 24 of the AEPD states that claims according to Art. 23, §§1 & 2 lapse in a year, reckoned from the day on which the person concerned first learns about the act of discrimination and its author, or in any event after three years from the day on which the act of discrimination occurred. For further preconditions for statutory limitation, the provisions of the general civil code apply correspondingly.

Art. 8 of the AEWL states that a complaint against a discriminating refusal of employment or a dismissal from employment has to be started within three months.

<sup>46</sup> Gesetz vom 15. Dezember 2004 über die Mediation in Zivilrechtssachen (Zivilrechts-Mediations-Gesetz; ZMG), LGBl. 2005 Nr. 31.

See also a).

d) *Can a person bring a case after the employment relationship has ended?*

There are neither provisions in the AEPD nor in the AEWP which exclude to bring a case after the employment relationship has ended.

## **6.2 Legal standing and associations (Article 7(2) Directive 2000/43, Article 9(2) Directive 2000/78)**

*Please list the ways in which associations may engage in judicial or other procedures*

a) *What types of entities are entitled under national law to act on behalf or in support of victims of discrimination? (please note that these may be any association).*

Court procedures can be carried out in person or by a representative (Art. 25 of the CCP). The representative may be a lawyer, but the CCP (Arts. 26 and 28) does not restrict to lawyers. It admits any authorized, mandated person, thus also associations (or a mandated lawyer), to act as a legal representative.

There also exists a special law to assist victims, the Act on Aid for Victims of Criminal Offences (AACVO).<sup>47</sup> This law defines who is entitled to assistance, it defines the role of the state, and it provides for compensation for damages. It is furthermore the legal basis (Arts. 12 to 16) for an Office for the Support of Victims of Criminal Offences (*Opferhilfestelle*).<sup>48</sup> This Office advises victims free of charge and supports victims by financial means. The Office also assists victims at court trials free of charge. There are no provisions that the Office can act on behalf of victims of discrimination.

b) *What are the respective terms and conditions under national law for associations to engage in proceedings on behalf and in support of complainants? Please explain any difference in the way those two types of standing (on behalf/in support) are governed. In particular, is it necessary for these associations to be incorporated/registered? Are there any specific chartered aims an entity needs to have; are there any membership or permanency requirements (a set number of members or years of existence), or any other requirement (please specify)? If the law requires entities to prove "legitimate interest", what types of proof are needed? Are there legal presumptions of "legitimate interest"?*

<sup>47</sup> Gesetz vom 22. Juni 2007 über die Hilfe von Opfern von Straftaten (Opferhilfegesetz, OHG), LGBl. 2007 no 228.

<sup>48</sup> Opferhilfestelle.

Art. 25 of the AEPD states that court trials have to be carried out according to the Code of Civil Procedure (CCP), with the exception of the provision with respect to the burden of proof in Art. 26. Basically the CCP states that court procedures can be carried out in person or by a representative (Art. 25 of the CCP). The representative may be a lawyer, but the CCP (Arts. 26 and 28) does not restrict to lawyers, but any authorized, mandated person. There are no provisions with respect to the engagement of associations (including trade unions) on behalf of any complaining person. Therefore, no registration of such associations is implemented. This does not exclude assistance, e.g. financial and personal support, legal advice etc., in court trials. Mandating, though, must be authorized by the complaining person.

Art. 7 of the AEWG states that associations residing in Liechtenstein that are dedicated to supporting gender equality or to supporting the interests of male and female employees, and which have been in existence for more than five years, may do the following if the complainant approves and gives them the mandate:

- state that discrimination is occurring;
- pursue a court trial.

c) *Where entities act on behalf or in support of victims, what form of authorization by a victim do they need? Are there any special provisions on victim consent in cases, where obtaining formal authorization is problematic, e.g. of minors or of persons under guardianship?*

In respect of gender discrimination, discrimination at the workplace, or any other grounds of discrimination, associations like trade union, equality associations etc. may act as representatives if the complainant gives them the respective mandate. This is what the Civil Court Procedures (CCP) enacts in Art. 25. Literally, a person can authorize another person (*eigenberechtigte Person*) according to Art. 26 CCP (c.f. a lawyer or another authorized person).

Parents are the representatives of minors at the court, if law does not provide for differing rules.

d) *Is action by all associations discretionary or some have legal duty to act under certain circumstances? Please describe.*

Action by all associations is discretionary. If they act on behalf of victims they must be mandated. According to the CCP, lawyers and other representatives have to show an authorization document at the first day of the court trial. This document must be either in original writing or certified.

e) *What types of proceedings (civil, administrative, criminal, etc.) may associations engage in? If there are any differences in associations' standing in different types of proceedings, please specify.*

There are no specific regulations regarding the types of proceedings. Since court proceedings vary between disputes with private and public employers, different courts can be included anyway.

- f) *What type of remedies may associations seek and obtain? If there are any differences in associations' standing in terms of remedies compared to actual victims, please specify.*

When associations are mandated by victims they may seek and obtain the same remedies on behalf of the victims as the victims themselves.

- g) *Are there any special rules on the shifting burden of proof where associations are engaged in proceedings?*

The requirements and functioning of the burden of proof clause do not change when a victim mandates an association.

- h) *Does national law allow associations to act in the public interest on their own behalf, without a specific victim to support or represent (**actio popularis**)? Please describe in detail the applicable rules, including the types of associations having such standing, the conditions for them to meet, the types of proceedings they may use, the types of remedies they may seek, and any special rules concerning the shifting burden of proof.*

Whether associations are allowed to act in the public interest on their own behalf or not depends on the concerning law. Art. 31 and Arts. 27 to 29 of the AEPD entitle associations for people with disabilities to make legal claims on their own behalf for accessibility provision in public buildings, for accessibility of public roads and traffic areas, and for accessibility on public transport systems. Precondition is that these associations have a Liechtenstein residence and that they have been in existence for at least five years. They can do this in their own name (cf. 7e.). Art. 7 §1 provides similar regulations for associations to support equality between women and men. They can let confirm by courts on their own behalf that discrimination exists. As a consequence the discrimination must be eliminated.

In addition, according to the Act on the Constitutional Court (ACC),<sup>49</sup> the Constitutional Court decides on the compatibility of laws and bylaws with the constitution and international treaties. Concerning bylaws, inter alia, 100 or more individuals entitled to vote can demand a review (*Antrag*) of the provision by the Constitutional Court (Art. 20 of the ACC). Associations are not allowed to ask for such a review, but Art. 20 of the ACC gives them the opportunity to collect the required number of signatures in order to have a bylaw examined by the Constitutional Court.

<sup>49</sup> Act on the Constitutional Court. Gesetz vom 27. November 2003 über den Staatsgerichtshof (StGHG), LGBl. 2004 Nr. 32.



The above mentioned provisions are covering the review of bylaws. Concerning the verification of the compatibility of laws and international treaties with the constitution, the right to demand a review by the Constitutional Court is restricted to other courts, to the government, municipalities, administrative bodies, or the constitutional court itself, depending on the case.

- i) *Does national law allow associations to act in the interest of more than one individual victim (**class action**) for claims arising from the same event? Please describe in detail the applicable rules, including the types of associations having such standing, the conditions for them to meet, the types of proceedings they may use, the types of remedies they may seek, and any special rules concerning the shifting burden of proof.*

There are no provisions regarding class action in the Liechtenstein legislation.

### **6.3 Burden of proof (Article 8 Directive 2000/43, Article 10 Directive 2000/78)**

*Does national law require or permit a shift of the burden of proof from the complainant to the respondent? Identify the criteria applicable in the full range of existing procedures and concerning the different types of discrimination, as defined by the Directives (including harassment).*

Art. 26 Burden of Proof of the AEPD states that:

- 1) When a person claims to be discriminated against according to Arts. 5 to 10, this person shall make this claim credible.
- 2) With reference to direct discrimination, it is obligatory on the defendant to prove that it is more likely in all the circumstances that he claims to have another reason for the difference in treatment and that this reason is crucial.
- 3) When citing a reference to harassment as well as indirect discrimination, it is obligatory on the defendant to prove that in consideration of all circumstances it is more likely that the facts substantiated by him are truthful.

Art. 6 of the AEWM states that discrimination according to Arts. 3 (prohibition of discrimination) and 4b (harassment) can be assumed if the concerned person describes it in a credible manner.

### **6.4 Victimisation (Article 9 Directive 2000/43, Article 11 Directive 2000/78)**

*What protection exists against victimisation? Does the protection against victimisation extend to people other than the complainant? (e.g. witnesses, or someone who helps the victim of discrimination to bring a complaint).*

The complainant must not be penalised by a response to a complaint or to the launching of a legal process to secure a ban on discrimination. Neither must anyone who appears as a witness or informant in court proceedings, or who supports a

person affected by discrimination, be penalised or disadvantaged. (Art. 23 §4 of the AEPD).

Art. 7a of the AEWMM states similarly that there must not be disadvantages for complainants or witnesses in case of complaint on grounds of discrimination or when proceedings to enforce the prohibition of discrimination are started.

## 6.5 Sanctions and remedies (Article 15 Directive 2000/43, Article 17 Directive 2000/78)

- a) *What are the sanctions applicable where unlawful discrimination has occurred? Consider the different sanctions that may apply where the discrimination occurs in private or public employment, or in a field outside employment.*

Art. 23 §1 of the AEPD states that the person concerned is entitled in any case to restitution of any financial losses incurred and to compensation for the personal detriment suffered.

The victim can also request an injunction to ban or prevent the threat of future discrimination or to eliminate existing discrimination. (Art. 2 §2). In assessing the extent of compensation for the immaterial injury, the length of the period of discrimination, the seriousness of the act, the extent of the detriment and whether there has been multiple discrimination, must in particular be taken into account. (Art. 23 §3).

Art. 7b of the AEWMM states: “Anyone affected by discrimination in the sense of Arts. 3 and 4 of the AEWMM can request the court or the authorities to:

- a) order payment of any lost wages;
- b) a refund of any overpaid social security contributions, or compensation for any social security services/payments missed.

Claims in respect of a) lapse after five years. The lapse of claims in respect of b) is governed by the provisions of the relevant special laws.

Art. 7c of the AEMW states:

- 1) If the act of discrimination consists in the rejection of a job application or in the termination of a contract of employment under private law, the person affected has a claim only to compensation instead of the claims referred to in Art. 5 §1 [= prohibit or eliminate discrimination]. Compensation is to be determined taking into account all the relevant circumstances and is calculated on the basis of either the prospective or actual wage.
- 2) In the case of discrimination through harassment or sexual harassment the court or the local authority of the person affected can, in addition to the claims according to Art. 5, also award compensation if the employer(s) cannot

- demonstrate that he/she/they has/have taken measures necessary and appropriate for the prevention of harassment or sexual harassment and which could reasonably have been expected of them. If the employer had received prior notice from the employee about a prospective or actual harassment or sexual harassment, and if despite this the employer did not take the necessary and reasonable measures, the court or the authority must award damages.
- 3) The extent of damages in respect of discrimination resulting from the rejection of a job application according to §1 may not be greater than the sum of three months' wages. The total amount of damages may not exceed this sum even where a claim for compensation for the discriminatory rejection of an application for the same job is made by more than one person. Compensation in the case of discrimination arising from the termination of a work contract under private law according to §1 must be at least of the value of three months' wages. The extent of damages to be awarded in the case of harassment or sexual harassment according to §2 is to be determined after consideration of all the circumstances and must not be less than 5000 SF (approx. 4000 €).
  - 4) If the discrimination relates to accession to or maintenance of the claim to services/payments within the social security system, the person affected has a right only to compensation, instead of the claims according to Art. 5 §1. Compensation is to be awarded after consideration of all the circumstances and is to be calculated on the basis of the prospective or actual services/payments and contributions.

Art. 15a of the AEWD states:

- 1) If the discrimination consists in the rejection or termination of a legal relationship, the person affected has a claim only for compensation instead of the claims under Art. 5 §1. The level of compensation is to be determined taking all the circumstances into consideration, and must be no more than 3000 SF (approx. 2500 €).
- 2) In the case of discrimination through harassment or sexual harassment the court may award the victim compensation in addition to the claims under Art. 5. The level of compensation is to be determined taking all the circumstances into account and must be at least 1000 SF (approx. 800 €).

Legal protection in respect of public employment is governed by the provisions of the Act on State Administration (ASA).

- b) *Is there any ceiling on the maximum amount of compensation that can be awarded?*

Art. 23 §1 of the AEPD (discrimination on grounds of disability) states that the person concerned is entitled in any case to restitution of any financial losses incurred and to compensation for the personal detriment suffered. No limit is stated in the law.

Concerning discrimination on grounds of gender, the AEW (Art. 15a) sets maximum and minimum limits, depending on the case.

There are no provisions on the maximum amount of compensation with respect to other grounds of discrimination.

- c) *Is there any information available concerning:*
- *the average amount of compensation available to victims?*
  - *the extent to which the available sanctions have been shown to be - or are likely to be - effective, proportionate and dissuasive, as required by the Directives?*

There is no data available.

## 7 SPECIALISED BODIES, Body for the promotion of equal treatment (Article 13 Directive 2000/43)

*When answering this question, if there is any data regarding the activities of the body (or bodies) for the promotion of equal treatment, include reference to this (keeping in mind the need to examine whether the race equality body is functioning properly). For example, annual reports, statistics on the number of complaints received in each year or the number of complainants assisted in bringing legal proceedings.*

- a) *Does a 'specialised body' or 'bodies' exist for the promotion of equal treatment irrespective of racial or ethnic origin? (Body/bodies that correspond to the requirements of Article 13. If the body you are mentioning is not the designated body according to the transposition process, please clearly indicate so).*

Office for Equality of People with Disabilities. This Office was installed by the government according to Art. 22 of the AEPD after the AEPD had entered into force in 2007.<sup>50</sup> The Office is attached to the (private) Association for People with Disabilities and acts independently.

Office for Equal Opportunities.<sup>51</sup> This is the administrative department with the broadest spectrum of issues concerning disadvantage and discrimination. The main focus, based on the Act on Equality of Women and Men (AEWM), is gender equality. The Office is also mandated by the government to cover other grounds of discrimination (disability, sexual orientation, migration and integration, social disadvantage). Disability, though, is also covered by the Office for Equality of People with Disabilities. Migration and integration as one of the fields of work of the Office for Equal Opportunities includes discrimination on grounds of race and ethnic origin, although this is not a major task of the Office. In addition, the Integration Office at the Alien's Department serves as institution to advise people and to conduct activities for a better integration of migrants.

The Office for Equal Opportunities is subordinated to the government (Ministry of Family Affairs and Equal Opportunities). In some respect it acts independently, namely the following: advising administrative bodies and private persons in equality affairs, supporting victims of discrimination, public affairs, research, and recommendations to administrative bodies and private stakeholders (Art. 19 §3 AEWM).

Commission for Equality of Women and Men.<sup>52</sup> This commission advises the government. The Head of the Office for Equal Opportunities is a counselling member of the Commission.

<sup>50</sup> Büro für die Gleichstellung von Menschen mit Behinderungen:

<http://www.lbv.li/Dienstleistungen/B%C3%BCrof%C3%BCrdieGleichstellung/tabid/916/Default.aspx>.

<sup>51</sup> Stabsstelle für Chancengleichheit: <http://www.llv.li/amtsstellen/llv-scg-home.htm>.

<sup>52</sup> Kommission für die Gleichstellung von Frau und Mann..

Integration Office at the Alien's Department. The Integration Office is responsible for integration agreements, integration courses, public affairs, campaigning and other activities for a successful integration of migrants in Liechtenstein. It is based on the Act on Aliens.<sup>53</sup>

Ombud Office for Children and Young Persons. This office was installed due to Arts. 96 to 100 of the ACY.<sup>54</sup>

- b) *Describe briefly the status of this body (or bodies) including how its governing body is selected, its sources of funding and to whom it is accountable. Is the independence of the body/bodies stipulated in the law? If not, can the body/bodies be considered to be independent? Please explain why.*

Office for Equality of People with Disabilities is attached to the (private) Association for People with Disabilities and acts independently.

The Office for Equal Opportunities is attached to the government. The government appoints the staff of the Office. There is a number of duties of the Office where, according to Art. 19 §3 AEW, the Office acts independently (advising administrative bodies and private persons in equality affairs, supporting victims of discrimination, public affairs, research, and recommendations to administrative bodies and private stakeholders). Nevertheless, dependency on the government is quite clear.

The Commission for Equality of Women and Men is elected by the government. The Commission advises the government, supports equality of women and men by means of public relations about its own activities, statements on legal developments, and by monitoring of the status of equal opportunities.<sup>55</sup> The Commission does not have its own budget. The activities are financed via the budget of the Office for Equal Opportunities as well as via the existing budgets of the bodies represented in the Commission office.

The Integration Office is part of the Alien's Department and thus dependent on the government.

- c) *Describe the competences of this body (or bodies), including a reference to whether it deals with other grounds of discrimination and/or wider human rights issues.*

The Office for Equal Opportunities is assigned to the Ministry of Family Affairs and Equal Opportunities ([www.scg.llv.li](http://www.scg.llv.li)). It is committed to promoting equal opportunities in the following areas: equality between women and men, disability, migration and integration (including race and ethnic origin), social discrimination, and sexual

<sup>53</sup> Gesetz vom 17. September 2008 über die Ausländer (Ausländergesetz; AuG), LGBl. 2008 Nr. 311.

<sup>54</sup> Ombudsstelle für Kinder und Jugendliche: <http://www.oskj.li>.

<sup>55</sup> [http://www.llv.li/pdf-llv-scg-reglement\\_kommission\\_chancengleichheit\\_schlussfassung\\_feb\\_8230\\_-2.pdf](http://www.llv.li/pdf-llv-scg-reglement_kommission_chancengleichheit_schlussfassung_feb_8230_-2.pdf).



orientation. The main focus of the law (AEWM) is clearly gender equality. Other grounds of discrimination are not explicitly mentioned in the law. Nevertheless, the government has mandated the Office to deal also with other grounds of discrimination, to raise awareness, and to combat discrimination in any field.

The Commission for Equal Opportunities as a consultative body is a permanent commission appointed by the government in order to address issues of equality in all spheres of life, especially in the areas of migration and integration, disability, education, religion, housing, health, age, social security, sexual orientation, and work. The commission is responsible for the coordination of activities with respect to equal opportunities and the implementation of an interdepartmental anti-discrimination policy.<sup>56</sup>

The Office for Equality of People with Disabilities focuses on discrimination on grounds of disability.

The Integration Office conducts activities for a better integration of migrants into society, including language courses and integration tests, public campaigns and more. The focus thus is more on integration than on anti-discrimination, although these aspects cannot be clearly separated. The main focus is on immigrants from non-German speaking countries, namely from Mediterranean countries, from South-East Europe and from Turkey.

*d) Does it / do they have the competence to provide independent assistance to victims, conduct independent surveys and publish independent reports, and issue recommendations on discrimination issues?*

According to Art. 19 §3 of the AEWM (amended by LGBl. 2006 no 152) the Office for Equal Opportunities acts independently in some fields: advising administrative bodies and private persons in equality affairs, supporting victims of discrimination, public affairs, research, and recommendations to administrative bodies and private stakeholders. Nevertheless, there is a significant dependency on the government.

Art. 17a of the AEWM states that the state can financially support private associations for assistance in a complaint.

The Office for Equality of People with Disabilities acts independently. It is rather a question of financial and staff resources whether assistance can be provided or not.

The Act on Aid for Victims of Criminal Offences (AAVCO) also provides for assistance of victims. This Office for Aid for Victims of Criminal Offences advises victims for free and supports victims by financial means. The Office also assists

<sup>56</sup> [http://www.llv.li/pdf-llv-scg-reglement\\_kommission\\_chancengleichheit\\_schlussfassung\\_feb.\\_8230\\_-2.pdf](http://www.llv.li/pdf-llv-scg-reglement_kommission_chancengleichheit_schlussfassung_feb._8230_-2.pdf).

victims at court trials. The Office is part of the Department of Social Services, but is supposed to act independently (Art. 9 §1 AAVCO).

- e) *Are the tasks undertaken by the body/bodies independently (notably those listed in the Directive 2000/43; providing independent assistance to victims of discrimination in pursuing their complaints about discrimination, conducting independent surveys concerning discrimination and publishing independent reports)?*

The Office for Equal Opportunities – formerly Office for Equality of Women and Men – runs its own studies or awards contracts with specialist research institutes to make research with relevance to equal opportunities. Art. 7 §1 states that associations with Liechtenstein residence which support equality between women and men or which support the interests of female and male employees and which have been in existence for at least five years can

- a) let confirm by courts on their own behalf that discrimination exists;  
b) go to court in the name of a complainant or assist a complainant before a court.

If the court confirms that discrimination exists, the next step would be to prevent and to eliminate the discrimination.

In Art. 7a of the AEWWM it is stated that disadvantages for complainants on grounds of gender discrimination are forbidden.

The AEPD is similar to the AEWWM. Associations for people with disabilities with Liechtenstein residence which have been in existence for at least five years are entitled to make legal claims on their own behalf for accessibility provision in public buildings, accessibility of public roads and traffic areas, and accessibility on public transport systems. They can do this in their own name (Art. 31, Arts. 27-29 of the AEPD).

There are no respective provisions concerning other grounds of discrimination.

- f) *Does the body (or bodies) have legal standing to bring discrimination complaints or to intervene in legal cases concerning discrimination?*

The Office and the Commission can advise victims, but cannot bring a complaint to the courts on behalf of the victims.

- g) *Is / are the body / bodies a quasi-judicial institution? Please briefly describe how this functions. Are the decisions binding? Does the body /bodies have the power to impose sanctions? Is an appeal possible? To the body itself? To courts?) Are the decisions well respected? (Please illustrate with examples/decisions).*



The Office and the Commission are not judicial bodies.

*i) Does the body treat Roma and Travellers as a priority issue? If so, please summarise its approach relating to Roma and Travellers.*

Roma and Travellers are not a priority issue since there is no Roma minority living in Liechtenstein nor are there travellers. There are no specific problems which need to be addressed concerning Roma and Travellers at this time.

## 8 IMPLEMENTATION ISSUES

### 8.1 Dissemination of information, dialogue with NGOs and between social partners

Describe *briefly* the action taken by the Member State

- a) *to disseminate information about legal protection against discrimination (Article 10 Directive 2000/43 and Article 12 Directive 2000/78)*

The dissemination of information concerning legal protection against discrimination is not directly promoted by state organs. However, the state supports private agencies that are active in this regard.

The Association for People with Disabilities gives assistance to people with disabilities in many regards. Much of the public affairs is done via the Liechtenstein daily newspapers. There are many news, articles etc., addressed to the public through this media channel. Information on websites is important as well. The Association runs an own website. The following webpage contains links to websites related to one or another aspect of disability [<http://www.lbv.li/Links/tabid/813/Default.aspx>].

The employees' association<sup>57</sup> provides information and support for members as well as for non-members. The Liechtenstein employees' association, though, is rather weak. Only a small proportion of the workers are members of the employees' association and thus the employees' association lacks financial and staff resources.

The organization called "Infra"<sup>58</sup> – which is a private service and contact office for women – advises women on various topics free of charge. Experienced lawyers advise and inform women about their rights and legal protection in individual interviews.

The organization "Flay"<sup>59</sup> is an organization for gay people. It informs about legal protection against discrimination based on sexual orientation.

There are several other organizations and campaigns against discrimination as well as for education on discrimination. They also inform on legal protection and rights in the case of discrimination.

- b) *to encourage dialogue with NGOs with a view to promoting the principle of equal treatment (Article 12 Directive 2000/43 and Article 14 Directive 2000/78) and*

<sup>57</sup> ArbeitnehmerInnenverband (LANV): <http://www.lanv.li>.

<sup>58</sup> Informations- und Kontaktstelle für Frauen (infra): [www.infra.li](http://www.infra.li).

<sup>59</sup> <http://www.flay.li/>.

See also a) above.

During the process of developing new legal provisions there are regular consultations (*Vernehmlassung*). Relevant social groups are invited to give comments and statements on draft bills. This eventually has an impact on the final version of an act.

When it comes to the role of the state as an employer, there is the goal of acting as an employer with responsibility, taking into account the needs of underprivileged groups such as people with disabilities and women.

- c) *to promote dialogue between social partners to give effect to the principle of equal treatment within workplace practices, codes of practice, workforce monitoring (Article 11 Directive 2000/43 and Article 13 Directive 2000/78)*

See also a) above.

The state leaves negotiations between the employees' association and the employers to a high degree to the social partners themselves. State interventions are restricted mainly to the monitoring of the respective laws.

The foundation SAVE is maintained jointly by the employees' association and the Chamber of Commerce. SAVE has set up a Central Parity Commission (*Zentrale Paritätische Kommission, ZKP*) in order to monitor collective labour agreements (*Gesamtarbeitsverträge, GAV*).

- d) *to specifically address the situation of Roma and Travellers.*

There are no specific problems which need to be addressed concerning Roma and Travellers at this time.

## 8.2 Compliance (Article 14 Directive 2000/43, Article 16 Directive 2000/78)

- a) *Are there mechanisms to ensure that contracts, collective agreements, internal rules of undertakings and the rules governing independent occupations, professions, workers' associations or employers' associations do not conflict with the principle of equal treatment? These may include general principles of the national system, such as, for example, "lex specialis derogat legi generali (special rules prevail over general rules) and lex posteriori derogat legi priori (more recent rules prevail over less recent rules).*

The legal system of Liechtenstein demands that laws are in accordance with the constitution and relevant international law; bylaws have to be in harmony with the respective laws. Thus, complaints to the courts can ultimately result in the Constitutional Court declaring a provision null and void.

b) *Are any laws, regulations or rules that are contrary to the principle of equality still in force?*

The political system of Liechtenstein is a combination of democracy and hereditary monarchy. The family statute of the Princely House<sup>60</sup> rules that the oldest son of the Prince shall be the successor to the throne (male primogeniture). Women are therefore excluded from succession to the throne. This traditional rule of succession to the throne was affirmed by the Princely House in 1993.

---

<sup>60</sup> Hausgesetz des Fürstlichen Hauses vom 26. Oktober 1993, LGBl. 1993 Nr. 100.



## 9 CO-ORDINATION AT NATIONAL LEVEL

*Which government department/other authority is/are responsible for dealing with or co-ordinating issues regarding anti-discrimination on the grounds covered by this report?*

Ministry of Family Affairs and Equal Opportunities (*Ressort Familie und Chancengleichheit*)

Ministry of Social Affairs (*Ressort Soziales*)

Ministry of Justice (*Ressort Justiz*)

Ministry of Home Affairs (*Ressort Inneres*)

Ministry of Education (*Ressort Bildung*)

The Ministries are in different aspects involved in questions of discrimination. The Ministry of Family Affairs and Equal Opportunities is responsible for the implementation of the AEWG and supervising the Office for Equal Opportunities, which covers all aspects of discrimination. Thus, the Ministry of Family Affairs and Equal Opportunities is the leading ministry within the government concerning discrimination. The co-operation between the different ministries is quite close since the government, by constitution, is collegial and decisions are taken collectively.

*Is there an anti-racism or anti-discrimination National Action Plan? If yes, please describe it briefly.*

A National Action Plan against racism has existed since 2002 (Nationaler Aktionsplan gegen Rassismus). A working group with representatives from several administrative departments meets regularly and initiates reports and research studies. It is led by the Office of Foreign Affairs.



## ANNEX

1. **Table of key national anti-discrimination legislation**
2. **Table of international instruments**

**ANNEX 1: TABLE OF KEY NATIONAL ANTI-DISCRIMINATION LEGISLATION**

Name of Country: LIECHTENSTEIN

Date: 30 April 2012

Title of Legislation (including amending legislation)	Date of adoption: Day/month/year	Date of entry in force from: Day/month/year	Grounds covered	Civil/Administrative/ Criminal Law	Material Scope	Principal content
This table concerns only key national legislation; please list the main anti-discrimination laws (which may be included as parts of laws with wider scope). Where the legislation is available electronically, provide the webpage address.					e.g. public employment, private employment, access to goods or services (including housing), social protection, social advantages, education	e.g. prohibition of direct and indirect discrimination, harassment, instruction to discriminate or creation of a specialised body
Act on Equality of People with Disabilities ( <i>Gesetz über die Gleichstellung von Menschen mit Behinderungen; Behindertengleichstellungsgesetz; BGIG; LGBTI. 2006 no 243</i> ) <sup>61</sup>	25 October 2006	1 January 2007	Disability	Civil/Administrative Law	All sectors	Equality of people with disabilities; prohibition of discrimination; support for people with disabilities; reasonable accommodation for persons with disability; pilot projects for integration into work environment.

<sup>61</sup> <http://www.gesetze.li/Seite2.jsp?LGBl=2006243.xml&Searchstring=behinderung&showLGBl=true&suchart=lgblaktuell>.

Title of Legislation (including amending legislation)	Date of adoption: Day/month/year	Date of entry in force from: Day/month/year	Grounds covered	Civil/Administrative/Criminal Law	Material Scope	Principal content
Act on Equality between Women and Men (Gesetz über die Gleichstellung von Frau und Mann; Gleichstellungsgesetz; <i>GLG</i> ; LGBl. 1999 no 96) <sup>62</sup>	10 March 1999	Day of announcement	Gender	Civil/Administrative Law	Employment; services; goods	Equality between women and men in all sections; prohibition of discrimination
Act on Disability Insurance ( <i>Invalidenversicherung</i> ; <i>IVG</i> ; LGBl. 1959 no. 5) <sup>63</sup>	23 December 1959	1 January 1960	Disability	Civil/Administrative Law	Insurance; goods; assistance; employment	Financial support for people with disabilities; direct and indirect assistance to improve living and working conditions; support of care homes and sheltered workshops
Act on Civil Union for Same-Sex Couples ( <i>Gesetz über die eingetragene Partnerschaft gleichgeschlechtlicher Paare</i> ; <i>Partnerschaftsgesetz</i> ; <i>PartG</i> ; LGBl. 2011 no 350) <sup>64</sup>	16 March 2011 (parliament); 17/19 June 2011 (popular vote)	1 September 2011	Sexual orientation	Civil Law	Same-sex registered partnership	Official Recognition of same-sex partnership/same-sex couples

<sup>62</sup> <http://www.gesetze.li/Seite2.jsp?LGBl=1999096.xml&Searchstring=gleichstellung&showLGBl=true&suchart=lgblaktuell>

<sup>63</sup> <http://www.gesetze.li/Seite2.jsp?LGBl=1960005.xml&Searchstring=invaliden&showLGBl=true&suchart=lgblaktuell>

<sup>64</sup> <http://www.gesetze.li/Seite2.jsp?LGBl=2011350.xml&Searchstring=partnerschaft&showLGBl=true&suchart=lgblaktuell>

Title of Legislation (including amending legislation)	Date of adoption: Day/month/year	Date of entry in force from: Day/month/year	Grounds covered	Civil/Administrative/ Criminal Law	Material Scope	Principal content
Common Civil Code ( <i>Allgemeines Bürgerliches Gesetzbuch; ABGB</i> ) <sup>65</sup>	1 June 1811	-	Gender, nationality, pregnancy	Civil Law	General	Civil rights
Penal Code ( <i>Strafgesetzbuch; StGB; LGBl. 1988 no 37</i> ) <sup>66</sup>	24 June 1987	1 January 1989	Race, national origin, ethnicity, language, religion, belief	Criminal Law	Penalties	Prohibition of racial discrimination by threat of punishment
[Amendment regarding racial discrimination by LGBl. 2000 no 36]	[15 December 1999]	[Day of announcement]				
Act on Foreigners ( <i>Ausländergesetz; AuG; LGBl. 2008 no 311</i> ) <sup>67</sup>	17 September 2008		Integration (nationality, race, ethnic origin)			

<sup>65</sup> <http://www.gesetze.li/Seite2.jsp?LGBl=1003001.xml&Searchstring=invaliden&showLGBl=true&suchart=lgblaktuell>

<sup>66</sup> <http://www.gesetze.li/Seite2.jsp?LGBl=1988037.xml&Searchstring=strafgesetzbuch&showLGBl=true&suchart=lgblaktuell>

<sup>67</sup> <http://www.gesetze.li/Seite2.jsp?LGBl=2008311.xml&Searchstring=ausl%E4ndergesetz&showLGBl=true&suchart=lgblaktuell>

**ANNEX 2: TABLE OF INTERNATIONAL INSTRUMENTS**

Name of Country: LIECHTENSTEIN

Date: 30 April 2012

<b>Instrument</b>	<b>Date of signature (if not signed please indicate) Day/month/year</b>	<b>Date of ratification (if not ratified please indicate) Day/month/year</b>	<b>Derogations/ reservations relevant to equality and non-discrimination</b>	<b>Right of individual petition accepted?</b>	<b>Can this instrument be directly relied upon in domestic courts by individuals?</b>
European Convention on Human Rights <sup>68</sup> ( <i>Europäische Menschenrechtskonvention</i> , LGBl. 1982 no 60/1) <sup>69</sup>  [Several protocols to the ECHR. Protocol No. 12 <sup>70</sup> was signed by Liechtenstein on 4 November 2000, but it is not yet ratified. The European Social Charter (revised) <sup>71</sup> is not yet signed by Liechtenstein.]	23 November 1978	8 September 1982 (entry into force)	Art. 64 and Art. 6 §1: Regarding publicity of trials, several existing national legal provisions that might limit publicity shall remain valid.	Yes	Yes

<sup>68</sup> <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?CL=ENG&CM=&NT=005&DF=11/23/2008&VL=>

<sup>69</sup> <http://www.gesetze.li/Seite1.jsp?LGBIm=1982060a>

<sup>70</sup> <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=177&CM=1&DF=10/02/2010&CL=ENG>.

<sup>71</sup> <http://www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=163&CM=7&DF=26/10/2008&CL=ENG>



Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
Convention on the Elimination of all Forms of Discrimination against Women <sup>72</sup> ( <i>Übereinkommen zur Beseitigung jeder Form von Diskriminierung der Frau</i> ; LGBl. 1996 no 164) <sup>73</sup>  [Including Protocol of 6 October 1999; LGBl. 2002 no 17]	No signature. Direct Ratification.	31 October 1995 (parliament)  21 January 1996 (entry into force)  [Protocol: 13 September 2001 (parliament) 24 January 2002 (entry into force)]	Art. 3 of the Liechtenstein Constitution regarding the succession to the throne etc. laid down by the Princely House in the form of a Law on the Princely House (male primogeniture etc.)	Yes	Yes

<sup>72</sup> [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en#34](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#34)

<sup>73</sup> <http://www.gesetze.li/Seite1.jsp?LGBIm=1996164>

Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
International Covenant on Civil and Political Rights <sup>74</sup> ( <i>Internationaler Pakt vom 16. Dezember 1966 über bürgerliche und politische Rechte</i> ; LGBl. 1999 no 58) <sup>75</sup>	16 December 1966	10 December 1998	Art. 26: “The Principality of Liechtenstein reserves the right to guarantee the rights contained in article 26 of the Covenant concerning the equality of all persons before the law and their entitlement without any discrimination to the equal protection of the law only in connection with other rights contained in the present Covenant.”	Yes	Yes

<sup>74</sup> [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en)

<sup>75</sup> <http://www.gesetze.li/Seite1.jsp?LGBIm=1999058>

Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
International Convention on the Elimination of All Forms of Racial Discrimination <sup>76</sup> ( <i>Internationales Übereinkommen zur Beseitigung jeder Form von Rassendiskriminierung</i> , LGBl. 2000 no 80) <sup>77</sup>	No signature. Direct Ratification.	21 October 1999 (parliament)  31 March 2000 (entry into force)	Art. 14: Only applicable if a case is not investigated by another international agency at the same time	Yes	
International Covenant on Economic, Social and Cultural Rights <sup>78</sup> ( <i>Internationaler Pakt vom 16. Dezember 1966 über wirtschaftliche, soziale und kulturelle Rechte</i> ; LGBl. 1999 no 57) <sup>79</sup>	No signature. Direct Ratification.	16 September 1998 (parliament)  10 March 1999 (entry into force)	-	-	Yes

<sup>76</sup> [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-2&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&lang=en).

<sup>77</sup> <http://www.gesetze.li/Seite1.jsp?LGBIm=2000080>.

<sup>78</sup> [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-3&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en).

<sup>79</sup> <http://www.gesetze.li/Seite1.jsp?LGBIm=1999057>.

Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
Framework Convention for the Protection of National Minorities <sup>80</sup> ( <i>Rahmenübereinkommen vom 1. Februar 1995 zum Schutz nationaler Minderheiten</i> ; LGBl. 1998 no 10) <sup>81</sup>	No signature. Direct Ratification.	18 September 1997 (parliament)  1 March 1998 (entry into force)	Declaration that no national minorities are present in Liechtenstein and that the ratification has to be seen as an act of solidarity with the goals of the convention.	-	See reservations

<sup>80</sup> <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=157&CM=2&DF=18/04/02&CL=ENG>.

<sup>81</sup> <http://www.gesetze.li/Seite1.jsp?LGBIm=1998010>.

Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
Convention on the Rights of the Child <sup>82</sup> ( <i>Übereinkommen vom 20. November 1989 über die Rechte des Kindes</i> ; LGBl. 1996 no 163) <sup>83</sup>	30 September 1990	22 December 1995	On 1 October 2009, the Government of Liechtenstein informed the Secretary-General that it had decided to withdraw the declaration concerning article 1 and the reservation concerning article 7 made upon ratification to the Convention. The text of the declaration withdrawn reads as follows: “According to the legislation of the Principality of Liechtenstein children reach majority at 20 years of age.		Yes

<sup>82</sup> [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en).

<sup>83</sup> <http://www.gesetze.li/Seite1.jsp?LGBIm=1996163>.

Instrument	Date of signature (if not signed please indicate) Day/month/year	Date of ratification (if not ratified please indicate) Day/month/year	Derogations/ reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
			However, Liechtenstein law provides for the possibility to prolong or to shorten the duration of minority."The text of the reservation withdrawn reads as follows: "The Principality of Liechtenstein reserves the right to apply the Liechtenstein legislation according to which Liechtenstein nationality is granted under certain conditions."		
European Charter for Regional or Minority Languages <sup>84</sup> ( <i>Europäische Charta vom 5. November 1992 der Regional- oder Minderheitensprachen</i> ; LGBl. 1998 no 9) <sup>85</sup>	No signature. Direct Ratification.	5 November 1997 (parliament)  1 March 1998 (entry into force)	Declaration that in Liechtenstein no regional or minority languages exist	-	See reservations

<sup>84</sup> <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=148&CM=8&DF=23/01/05&CL=ENG>.



<b>Instrument</b>	<b>Date of signature (if not signed please indicate) Day/month/year</b>	<b>Date of ratification (if not ratified please indicate) Day/month/year</b>	<b>Derogations/ reservations relevant to equality and non-discrimination</b>	<b>Right of individual petition accepted?</b>	<b>Can this instrument be directly relied upon in domestic courts by individuals?</b>
Revised European Social Charter <sup>86</sup>	Not Signed	N/A	N/A	N/A	N/A
Convention on the Rights of Persons with Disabilities <sup>87</sup>	Not Signed	N/A	N/A	N/A	N/A
ILO Convention No. 111 on Discrimination <sup>88</sup>	Not Signed. Liechtenstein is not an ILO member state	N/A	N/A	N/A	N/A

<http://treaties.un.org/Home.aspx?lang=en>.

[http://www.regierung.li/uploads/media/pdf-fl-aussenstelle-newyork-dokumente-humanrights-iccprliechtensteinreport\\_01.pdf](http://www.regierung.li/uploads/media/pdf-fl-aussenstelle-newyork-dokumente-humanrights-iccprliechtensteinreport_01.pdf).

<sup>85</sup> <http://www.gesetze.li/Seite1.jsp?LGBIm=1998009>.

<sup>86</sup> <http://www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=163&CM=7&DF=26/10/2008&CL=ENG>.

<sup>87</sup> [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-15&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&lang=en).

<sup>88</sup> <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C111>.